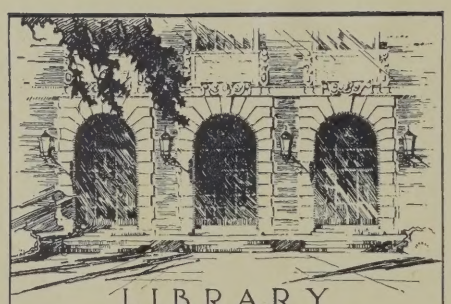

LIBRARY
OF THE
UNIVERSITY
OF ILLINOIS

328.7481
P381
1957
v.4

16 F 59 direct, g/t, v. 35, G. A142, 1957, ltr

APPENDIX

TO THE

LEGISLATIVE JOURNAL

SESSION OF 1957

328.7481
P381
1957
v.4

TABLE OF CONTENTS

	Legislative Journal Page	Appendix Page
Reasons for Pardons	58	3965
Lehigh Coal and Navigation Co.	91	4191
City Trust of Philadelphia	91	4191
House Resolution No. 131	679	4194
Governor's Message—Higher Education	709	4200
JOINT STATE GOVERNMENT COMMISSION—		
Biennial Report	130	4233
Subsidence	523	4239
Public Buildings	760	4262
Public Health	1002	4264
Public Instruction	1063	4265
Personnel Administration	711	4268
Conservation of Natural Resources	852	4269
Public Welfare	872	4270
Fiscal Affairs	649	4271
Senate Resolution No. 17—Department of Welfare Report	711	4273
Hospital Reports—Senate	110	4279
Health Service Annual Report—First Aid Room	....	4282
Report of Delaware River Port Authority	608	4282
McKinsey & Co., Inc., Report—Bureau of Sales and Use Tax	652	4309
General Communications—	108	4319
Grand Jury Reports	109	4319
Grand Jury Reports	610	4336
Grand Jury Reports	1242	4338
Grand Jury Reports	1988	4340
Grand Jury Reports	2539	4341
Pittsburgh Public Schools	110	4344
The General Assembly of North Carolina	110	4344
Board of Pardons Investigation—Hearings	....	4345
Committee Report	3808	4902

APPENDIX
TO THE
LEGISLATIVE JOURNAL
SESSION OF 1957

REASONS FOR PARDONS GRANTED BY GOVERNOR

Commonwealth of Pennsylvania,
Governor's Office, Harrisburg, January 1, 1957.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I have the honor to present herewith the reasons for pardons and commutations granted from January 5, 1955 to date

GEORGE M. LEADER.

BOARD OF PARDONS

In re application of Lester E. Gore, No. A1740, December Session, 1953.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Lester E. Gore, convicted of perjury in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County, on October 8, 1952 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-two years of age. He had no prior criminal record. He was convicted on perjury in Philadelphia County and sentenced to a term of not less than one nor more than three years. After having served approximately eight months he was granted commutation and has been on parole approximately one and one-half years.

He desires this pardon because he has alleged that he is completely rehabilitated. At the present time he is in the building business and is unable to apply for bids and fidelity bonds of any sort by reason of this conviction.

Since he has been in no further difficulty and since he is completely rehabilitated and will not again offend against society, we are recommending that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD S. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Roddie Jones, No. A2491, September Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Roddie Jones, convicted of rape in the Court of Oyer and Terminer of Beaver County on October 21, 1953, computed from October 14, 1953 be commuted from 1½ years.

Our reasons for making this recommendation are as follows:

This applicant is twenty-two years of age. This was his first major conviction. He did not actually commit a rape in this case, but he did attempt to commit a rape where his accomplice succeeded. At or about the same time a similar offense was committed in Allegheny County and he was given a sentence of two to four years on this offense.

This applicant has now been incarcerated approximately one year three months on a minimum sentence of one year six months. He has a good record in the Allegheny County Workhouse, and the trial judge and district attorney have left the matter of commutation up to the Board.

The Burgess of the Boro of Ambridge, Pennsylvania, has seen fit to advise the Board of Pardons that this young man has been known to him for a number of years and he advises that he will be willing to look after him. We also have letters from others in his home town who state that he is not a bad boy at heart.

This applicant is only twenty-three years of age at the present time and we believe that he has been sufficiently punished for this offense. We, therefore, recommend that the balance of his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD S. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Raymond Eugene Pompa, C3487, No. A1950, October Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Raymond Eugene Pompa, convicted of burglary in the Court of Oyer and Terminer of Dauphin County on August 4, 1952, computed from August 31, 1954 be commuted from 2 years to 1 year 4 months expiring on December 31, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-nine years of age. This was his first conviction. He was given consecutive sentences in Dauphin and Butler Counties, one which he served prior to this sentence. He was given two to four years in the Western State Penitentiary, on charges of burglary. His accomplice in this offense, Scassera, had his sentence commuted in the Allegheny County Workhouse and is now serving a like sentence in the Western State Penitentiary.

Since this applicant was a virtual first offender and had no prior criminal record, we feel that he has demonstrated his ability to behave. This applicant has now served nearly three and one-half years on what was virtually a five to ten year sentence although they were on consecutive sentences.

The Board of Trustees of the Western State Penitentiary have no recommendation to make, and the district attorney of Dauphin County is not opposed to the granting of clemency. The trial judge, the Honorable Homer L. Kreider, however, feels that this application is premature.

Since some clemency was shown to this applicant's accomplice by commuting the Butler County sentence so that he could begin to serve the Dauphin County sentence, we feel this applicant should be given the same sort of treatment. The clemency which was granted to this applicant's accomplice amounted to eight months.

We feel we should commute this applicant's sentence by eight months so as to place them on equal positions. We, Therefore, recommend that this applicant's minimum sentence be commuted by eight months.

Respectfully submitted,

(Sgd) LLOYD S. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Louis Scoratow, No. 5896, October Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Louis Scoratow, convicted of murder first degree in the Court of Oyer and Terminer of Allegheny County on June 27, 1933 be commuted from life imprisonment to 21 years, 7 months expiring on January 27, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age and this was his first major conviction. He was convicted of murder in the first degree and sentenced to life imprisonment. After he had served approximately fifteen years he was released on parole. Since that time he has been under the supervision of the Board of Parole and has an excellent record with the Board. It is now almost seven years that this man has been under supervision. He has made a wonderful re-adjustment and is now a part owner of a prefabricated housing company. He finds it exceedingly difficult to be bonded because of this conviction and the fact that he is still on parole.

The trial judge, the Honorable J. Frank Graff, leaves the matter of commutation of maximum sentence up to the Board. The district attorney of Allegheny County is still opposed but the Board feels that this man is now completely rehabilitated and will no longer offend against society and in order not to hamper his complete rehabilitation we are recommending that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Samuel Simonetti, D-7606, No. A-680, November Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Samuel Simonetti, convicted of robbery, and robbery armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on February 9, 1944, computed from January 15, 1944, be commuted from 20 years to 11 years, 1 month, expiring on February 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age. He had had several prior arrests and served minor convictions. However, this was his first serious conviction and he received a very severe sentence.

This applicant has a good work record in the State Penitentiary at Graterford and has shown an interest in bettering himself. He is considered willing, obedient and a cheerful worker.

The trial judge, the Honorable George G. Perry, has not advised the Board as to his position in the matter. The district attorney of Philadelphia County is not opposed to clemency.

This applicant at the present time has served eleven years of this minimum sentence. Since he has served more than one-half of his minimum sentence, we feel that he has been sufficiently punished and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Peter Barneckie, E-2139, No. A-2317, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Peter Barneckie, convicted of burglary in the Court of Quarter Sessions of Philadelphia County on December 2, 1947, computed from February 1, 1951, be commuted from 7½ years to 4 years expiring on February 1, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He has had a bad prior criminal record consisting of six arrests, four convictions and one parole violation, the parole violation having been the commission of the offense for which he is presently confined in the institution. Actually applicant has served over seven years in the Eastern State Penitentiary, but since he was required to serve approximately four years as a result of being a parole violator he will have served only four years on his minimum sentence of seven and one-half years on behalf of this offense.

This applicant is probably one of the best prisoners in the Eastern State Penitentiary. At the present time he operates the Leather-Craft Shop in the Institution and he has several employees working for him. He numbers among the patrons of his shop a United States Senator; officials of the Commonwealth of Pennsylvania and Philadelphia City officials.

At the present time the applicant has nearly ten thousand dollars in money in Government Bonds invested as a result of his craftsmanship in the institution.

The trial Judge, the Honorable Byron Milner, has written the Board and states that he recommends that the applicant be granted commutation. The District Attorney of Philadelphia is opposed in this case.

Since this applicant has attempted to complete his rehabilitation and the authorities in the Eastern State Penitentiary state he has done a magnificent job, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

In re application of John Barr, 3002, No. 262, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Barr, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on December 7, 1934, be commuted from 20 years to 12 years, 3 months, 11 days, expiring on December 30, 1954.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 19, 1963.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Samuel Betoff, No. A-2786, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Samuel Betoff, convicted of failure to stop and render assistance after an accident in the Court of Quarter Sessions of Philadelphia County on May 23, 1929; convicted of bookmaking in the Court of Quarter Sessions of Delaware County on January 6, 1942; convicted of bookmaking in the Court of Quarter Sessions of Delaware County on June 18, 1942; convicted of violation of the Pennsylvania Liquor Control Act in the Court of Quarter Sessions of Philadelphia County on January 21, 1944, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty years of age. He is asking a pardon on four offenses. The last of these offenses occurred in 1943, nearly twelve years ago.

Since this last offense this applicant has become the president of the Beach Amusement Corporation on the Million Dollar Pier at Atlantic City. He has a very fine reputation according to the Board of Parole, who has made an exhaustive check in his background and advises us that he is a successful business man who is well situated in successful enterprises.

Since this applicant has made such a complete rehabilitation and is no longer connected with any criminal activities, the Board is of the opinion that he will not do anything to hinder his further progress.

The trial Judge, the Honorable Francis Shunk Brown, Jr., leaves the matter of clemency up to the Board and the Honorable Harold L. Ervin leaves the matter of clemency, as far as Delaware County is concerned, up to the Board because he was not the trial judge. The district attorneys of Philadelphia and Delaware Counties are not opposed to the granting of clemency.

Since the last of these offenses occurred more than eleven years ago, and since he has completely rehabilitated himself the Board feels he has been sufficiently punished and recommends that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Richard Anthony Bobeck, 9572-B, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Richard Anthony Bobeck, convicted of burglary in the Court of Quarter Sessions of Northumberland County on February 5, 1952 be commuted from 5 years to 3 years, 2 months expiring on January 29, 1955.

Our reasons for making this recommendation are as follows:

This applicant is seventy-six years of age and this was his first major conviction. He had four accomplices, all of whom were minors. They were drinking and when they ran out of money they committed a series of burglaries. This applicant, who was older than his accomplices, and had been involved in certain Juvenile arrests, became the object of the Court in his sentencing, and while the accomplices all received probationary sentences, this applicant was sentenced to not less than five nor more than ten years in the Northumberland County Prison.

At the present time he has served more than three years of this sentence so it is possible to state for the record that he was not quite seventeen years of age when these offenses took place.

The Warden of the Northumberland County Prison states that the applicant has a good record in the institution and has no objection to his release. Neither the trial Judge, the Honorable Robert M. Fortney nor the District Attorney are opposed.

In view of the fact that this applicant has served three years while his accomplices received probationary sentences, we feel that he has been sufficiently punished, and we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Ross Bordo E-1693, No. A-1008, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Ross Bordo, convicted of burglary in the Court of Oyer & Terminer and Quarter Sessions of Lackawanna County on February 6, 1948, computed from May 24, 1950, be computed from 10 years to 4 years, 9 months, expiring on February 24, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age and he had a bad prior criminal record. He was sentenced to a term of not less than ten nor more than twenty years following a plea of guilty to a charge of burglary. This applicant has been continuously confined for nearly seven years but only four and one-half years count because this was a parole violation.

He has an excellent institutional record for the past four years and the trial Judge, the Honorable Michael J. Eagen feels that it is premature. The District Attorney of Lackawanna County, however, is not opposed to the granting of clemency. Because this applicant has served seven years and because all the accomplices have been released, we feel that he has been punished a great deal more than any of the other participants and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved.

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Samuel Brown, D 6295, No. A2840, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Samuel Brown, convicted of murder, first degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on February 11, 1942 be commuted from life imprisonment to 13 years expiring on February 11, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty years of age. He had no prior criminal record. He was convicted of the charge of murder and was sentenced to life imprisonment. His accomplice, who was actually the killer in this offense, was awarded a new trial and thereafter was sentenced to a term of not less than ten nor more than twenty years on a charge of second degree murder.

This applicant has a good institutional record and the trial judge, the Honorable Vincent Carroll, has recommended that clemency be granted because it would be a rank injustice if this applicant stayed in prison while the person who committed the actual offense roamed the streets of Philadelphia.

Since this applicant has actually served two years longer than his accomplice, who committed the offense, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of R. L. Buzard, C-1876, No. A-1195, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of R. L. Buzard, convicted of murder, in the second degree in the Court of Oyer and Terminer of Jefferson County on May 15, 1950. Computed from November 17, 1950, be commuted from 6 years to 4 years, 3 months expiring on February 17, 1955.

Our reasons for making this recommendation are as follows:

This applicant is sixty-three years of age. This was his first conviction. He was convicted and sentenced on a charge of murder in the first degree for causing the death of a person with whom he had a fight. He has an excellent institutional record in the State Penitentiary at Rockview. The present Judge in Jefferson County leaves the matter up to the Board.

The District Attorney, who was not District Attorney when this offense took place, but nevertheless, is opposed.

This applicant has served two-thirds of his minimum sentence and his wife, who appeared in his behalf, has stated that he was a good father and a good provider, and she, who is his age, is in need of his aid and assistance.

Since this was the applicant's first conviction and since he has now served over four years of his minimum sentence, we feel that he has been sufficiently punished and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Albert Carelli, No. 1471, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Albert Carelli, convicted of robbery and larceny in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on October 21, 1926 be commuted to No. 55 November Sessions, A. D. 1923 from a maximum term of 10 years to a new maximum term of 2 years 3 months, expiring February 6, 1955; and to No. 186 November Sessions, A. D. 1923 from maximum term of 3 years to a new maximum term of 2 years, 3 months, expiring on February 7, 1955; and to No. 187 November Sessions, A D. 1923 from a maximum term of 3 years to a new maximum term of 2 years, 3 months, expiring on February 8, 1855, and to No. 210 November Sessions, A. D. 1923 from a maximum term of 3 years to a new maximum term of 2 years, 3 months, expiring on February 9, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-nine years of age. He has perhaps the wierdest sentence of any person who was ever in the Western State Penitentiary. In 1925 he was sentenced to a total sentence of not less than twenty-eight nor more than fifty-nine years and after having served ten years of this sentence, his sentence was commuted and he was released on parole.

At the time of his original sentence, his sentences were illegally lumped so that when his sentence was commuted, under the decision in the Kinsella Case, he was illegally released and he had the status of a prisoner illegally at liberty. Therefore, when he was returned to the penitentiary on conviction of a subsequent sentence he was required to go ahead with the service of his sentences in the same status he had when he was illegally released

The trial judge is no longer on the bench and the present judge has no comment to make. The district attorney of Allegheny County, however, is opposed to the granting of clemency, even though this applicant has been on parole for more than two years. He has a good plan in that he desires to go to Cleveland to live with a sister and desires to go there without parole because of the evidence of his long sentence which now hangs over him.

In view of the fact that this applicant has been at liberty on two previous occasions and a period of ten years and two months we feel that he has been sufficiently punished and since the Board of Parole has no objection to the commutation of his maximum sentence, we are recommending that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Ralph Ciongoli, 73381, No. A-2304, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Ralph Ciongoli, convicted of burglary in the Court of Oyer and Terminer of Allegheny County on January 28, 1953 be commuted from 3½ years to 2 years expiring on January 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age and this was his first major imprisonment. He plead guilty to the offense of burglary and was sentenced to not less than three and one-half nor more than seven years. His six accomplices all received very small sentences or were placed on probation.

At the present time this applicant has served more than two years of his minmum sentence. This applicant feels that he has been sufficiently punished as a result of these charges and since he now has a good record in the Workhouse and has served such a long period of time, we feel that we can recommend Executive clemency at this time.

The trial Judge did not report his opinion and the District Attorney is opposed. However, the Board still is of the opinion that this sentenced be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.

(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of James Edwin Collins, B-8485, A-2846, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Edwin Collins, convicted of robbery; robbery from person and assault and battery with intent to commit robbery, in the Court of Oyer and Terminer of Allegheny County on March 15, 1943, computed from January 30, 1943 be commuted from 70 years to 12 years expiring on January 30, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-nine years of age. At the present time he has served twelve years of a minimum sentence of not less than seventy nor more than one hundred forty years It is interesting to note that this is the equivalent of a life sentence. The Board is of the opinion this type of sentence is ridiculous on its face, even if the applicant has a bad prior record such as this applicant had. Nevertheless this applicant has a good institutional record and the Board of Trustees of the Western State Penitentiary have made a recommendation to the Board of Pardons that they are inclined to recommend clemency even in spite of a suspected involvement in the recent riot.

The trial judge is deceased and the present judge has no comment to make. The district attorney of Allegheny County is still opposed to the granting of clemency.

In view of the fact that this applicant received a very severe sentence and has now served nearly twelve years, we are recommending that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of John Comido, No. A-312, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Comido, convicted of arson in the Court of Quarter Sessions of Montgomery Cunty on May 2, 1949 be commuted from 7 years to 6 years expiring on February 5, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age. He had no prior record. He, together with two accomplices, set fire to his business establishment in order that he could collect insurance. Both of his accomplices have served their sentences and have been released more than five years ago.

The Board of Parole states this applicant has made an excellent adjustment on his release from prison and that he has but a year and one-half for his maximum sentence to expire. The Board of Parole further states that his adjustment on parole has been very good and they are not opposed to the granting of commutation.

The trial judge, the Honorable George C. Corson, leaves the matter of commutation up to the Board, but the district attorney of Montgomery County remains opposed.

We feel that since this applicant has made a good adjustment he is entitled to consideration at this time and we, therefore, recommend that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Austin Crawford, 1227-E, No. A-2420, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Austin Crawford, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer of Northumberland County on December 14, 1953 be commuted from 1½ years to 1 year, 2 months expiring on February 14, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-four years of age and this was his first major conviction. He and three accomplices committed an armed robbery and he was sentenced to a term of not less than one and one-half nor more than three years in the Northumberland County Prison for his participation in this offense.

At the present time he has served more than one year of this sentence. The Warden of the Northumberland County Prison advises that he is one of the best workers in the prison and that he is most cooperative and is recommending him quite highly.

Both the trial judge, the Honorable Robert M. Fortney, and the District Attorney of Northumberland County leave the matter of commutation up to the Board.

Since this applicant was virtually a first offender and he has served more than one year for his participation in this offense, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Louis Dadowski, Jr., No. A-305, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentences of imprisonment imposed on Louis Dadowski, Jr., convicted of burglary, robbery, larceny, in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on December 3, 1945, to be computed from October 5, 1945; and further recommend that the maximum sentence of imprisonment imposed on Louis Dadowski, Jr., convicted of robbery, being armed with an offensive weapon in the Court of Quarter Sessions of Westmoreland County on November 27, 1951, to run concurrent with the Allegheny County sentence and to be computed from November 27, 1951; be commuted on Nos. 2, 3, 9 and 5 November Sessions 1945 (Allegheny County) from a maximum term of 26 years to a maximum term of 9 years, 4 months, expiring on February 5, 1955; and be commuted on No. 5 February Sessions 1946 (Westmoreland County) from a maximum term of 10 years to a maximum term of 3 years, 2 months, 10 days, expiring on February 6, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-seven years of age. This was his first major conviction After having served nearly seven years of his minimum sentence he was released on parole, and has now been on parole nearly three years. He is suffering from tuberculosis and desires to have his maximum sentences commuted in order that he may be free to go West and seek treatment, which will extend his life.

The Board of Parole advises us that this applicant's reputation has been good since his release from the penitentiary.

The trial judge is deceased and the present judge has no comment. The district attorney is not opposed to the applicant's release from parole.

In view of the fact this applicant has been on parole for a period of nearly three years, we are recommending that his maximum sentences be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Millard Daley, 7548-D, No. A-2866, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Millard Daley, convicted of prison breach, burglary; larceny; burglary, aiding prisoner to escape in the Court of Oyer and Terminer and Quarter Sessions of Franklin County on September 26, 1941, computed from June 21, 1941, be commuted from 16 years to 13 years, 7 months, expiring on January 21, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record But for this action the applicant, because of his sentence, would remain on parole until June 21, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Rocco Di Nubile, No. 2689, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Rocco Di Nubile, convicted of gambling in the Court of Quarter Sessions of Philadelphia County, on October 29, 1953 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-three years of age. He had no prior criminal record. He was arrested for taking bets on a basket ball game and he plead guilty to the offense and was placed on probation for a period of one year. The Board of Parole states that this applicant is a good steady worker who adequately supports his family. He served in the Armed Forces of the United States and was honorably discharged in 1946. This applicant is a mechanical dentist and is employed at the Grevan Dental Laboratories in Philadelphia. Everyone with whom he is associated speaks well of him and it is doubtful that be will ever again be involved in these offenses.

The trial judge, Honorable John M. Davis leaves the recommending of a pardon up to the Board and the District Attorney of Philadelphia County is not opposed to clemency.

This applicant is married and has two children and since this offense did not involve moral turpitude and he has made an effort to adjust, and since he has such a good reputation at this time, we recommend that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of James Dubenski, C-7084, No. A-1151, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Dubenski, convicted of robbery, armed with an offensive weapon in the Court of Quarter Sessions of Philadelphia County on August 17, 1938, computed from August 10, 1938 be commuted from 20 years to 16 years, 6 months expiring on February 10, 1955.

Our reasons for making this recommendation are as follow:

This applicant is fifty-one years of age and he was sentenced on a plea of guilty to not less than ten nor more than twenty years on charges of robbery, armed with an offensive weapon. This applicant, while serving his sentence in the Philadelphia County Prison, was sent to the Farview State Hospital for the Criminal Insane on January 18, 1939. He remained at this institution until August 1953 when he was returned to the Philadelphia County Prison as cured, and released on parole on September 4, 1953.

This applicant will remain on parole until 1958 if no further action is taken. The parolee is now living in Ohio with his wife's relatives and he asks commutation of his maximum sentence. He was laid off in October 1954 and it is stated that he would be rehired when business picked up. We believe this applicant is attempting to adjust favorably but we do not wish to reward idle parolees, so it is the considered opinion, and the trial judge, the Honorable Gerald Flood, and the district attorney, that commutation of maximum sentence should be granted when this applicant has secured a job.

Accordingly, we are recommending to your Excellency that the maximum sentence be commuted, but only on condition that he is employed and working at the time recommendation is effective.

Respectfully submitted,

(Sgd) LLOYD S. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Charles Ellis, E-4696, No. A-2836, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Charles Ellis, convicted of larceny in the Court of Quarter Sessions of Philadelphia County on July 29, 1954, computed from June 11, 1954 be commuted from 1 year to 8 months expiring on February 11, 1955.

Our reasons for making this recommendation are as follow:

This applicant is twenty-eight years of age. His only offense against the law seems to be a result of his addiction to the drug habit. This offense occurred when the applicant had stolen physicians' prescription blanks and he was held by the Court on the ground of larceny. Also found in the apartment was approximately four thousand dollars' worth of narcotics.

This applicant seeks commutation of his sentence here on the hope that he may be transferred to the United States Public Health Hospital in Lexington, Kentucky, there to be cured of this drug habit, after which he feels that he will be able to lead a useful life in society.

The trial judge, the Honorable Louis E. Levinthal, has not seen fit to advise the Board in this matter, but the district attorney of Philadelphia has stated he is not opposed to the granting of clemency on condition that this applicant be admitted to the United States Public Health Hospital in Lexington, Kentucky.

This applicant has a very good institutional record in the State Penitentiary at Graterford and in view of the fact that he committed this offense because of his drug habit more than anything else, we are recommending that his sentence be commuted but only on condition that he be accepted to the hospital as above stated for treatment, there to be maintained and kept until he shall be certified as being cured of the drug habit.

Respectfully submitted,

(Sgd) LLOYD S. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of James Enos, No. 5399-D, No. 5470, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Enos, convicted of murder in the second degree, in the Court of Quarter Sessions of Westmoreland County on May 26, 1939, be commuted from 20 years to 15 years, 6 months, expiring on November 26, 1954.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until May 1, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) LLOYD S. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Joseph F. Falcone, No. A-2856, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Joseph F. Falcone, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer of Philadelphia County, on June 18, 1941 be pardoned.

Our reasons for making this recommendation are as follow:

This applicant is thirty-four years of age. He had no prior criminal record. He plead guilty to the offense of robbery armed with an offensive weapon in 1941 and he served his minimum sentence. This applicant should be considered the spotter or finger man the offenses that took place. They all took place when he was a very young man and he has since served out his maximum sentence for his offense. He is married and has two children and he is now located in the City of Philadelphia Water Reading Meter Department.

The Board of Parole states this applicant desires this pardon in order that he may be available for civil service employment, which is more stable than the type of employment he has been engaged in prior to this.

This applicant has been in no further difficulty for nearly fourteen years and since he is attempting to go straight and raise a family, we do not wish to place any further impediment in his way so we are recommending that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD S. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) Frank F. Truscott,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Vere Felker, E-3268, No. A-2859, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Vere Felker, convicted of sodomy in the Court of Oyer & Terminer of Dauphin County on September 18, 1952 be commuted from 5 years to 2 years, 5 months expiring on February 18, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-eight years of age and has had no prior criminal record. He plead guilty to the offense of sodomy committed on four girls, fourteen years of age. The girls did have a slightly tarnished reputation and this applicant has now served three months with a very good record.

The District Attorney of Dauphin County stated that he felt the sentence imposed by the Court was too severe under the circumstances. However, the trial Judge is opposed to the granting of clemency.

We feel that this applicant is more in need of treatment than confinement and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs,

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Regis C. Friem, C-293, No. A-2798, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Regis C. Friem, convicted of burglary in the Court of Oyer and Terminer of Allegheny County on October 22, 1945, computed from August 29, 1947 be commuted from 10 years to 7 years, 5 months expiring on January 29, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age. He plead guilty to the offense of burglary and was sentenced to not less than ten nor more than twenty years. It should be pointed out that this applicant is no stranger to the penitentiary having served there on two prior occasions.

However, the Board of Trustees of the Western State Penitentiary advises that this applicant has an excellent institutional record and in view of the fact that this applicant has served over seven years they would recommend him for clemency. It is stated that he tries at all times to do his best and he has improved his educational status. He appears to be much more mature now than he was at the time this offense occurred.

The district attorney of Allegheny County is not opposed, nor is the trial judge, the Honorable John J. Kennedy.

Since this applicant has served over seven years three months of his minimum sentence of ten years, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs,

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Samuel Francis German, No. A-2072, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due

public notice, in open session, the undersigned members of the Board of Pardons recommend that Samuel Francis German, convicted of contributing to the delinquency of a minor in the Court of Quarter Sessions of Jefferson County, on August 22, 1952 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age and he had no prior criminal record. He plead guilty to the charge of contributing to the delinquency of a minor and served his minimum sentence. The child involved was deeply in love with the applicant and they have since have married. His former wife, who was the applicant's representative, stated that this sentence has only hurt her children and for that reason she has asked that a pardon be granted to her former husband.

He has been in no further difficulty for more than a year and since he and the person who was the cause of this offense are now married, we believe he will be in no further difficulty and we, therefore, recommend that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs,

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of David Gerson, No. A-2785, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that David Gerson convicted of keeping a gaming house; poolselling and bookmaking and conspiracy in the Court of Quarter Sessions of Philadelphia County on June 1, 1939; and convicted of conspiracy in the Court of Quarter Sessions of Philadelphia County in June 1, 1939, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-four years of age and this was his first major conviction. He was sentenced on a plea of guilty to six months in the Philadelphia County Prison for keeping and maintaining a gambling house, poolselling and bookmaking and conspiracy. There is no doubt that this applicant did at that time commit these offenses and because of that he plead guilty and was sentenced as above set forth.

However, since that time the applicant has purchased and owns and operates the City Grille, a well-known restaurant just across from City Hall in Philadelphia. He has a son, who is a student in Duke University and desires this pardon for business and social reasons.

The Board of Parole has stated that this applicant has an excellent reputation and is well known among the members of his faith for his charitable activities. In view of his positive rehabilitation and the fact that he desires this pardon so that he may clear his name is sufficient reason for the Board and we, therefore, recommend that his pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs,

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Helen Lamb Gibson, No. A-2805, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Helen Lamb Gibson, convicted of adultery in the Court of Quarter Sessions of Somerset County, on November 12, 1940, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-five years of age. She has no prior record. She was convicted of the crime of adultery and this offense occurred over fourteen years ago. She has since completely rehabilitated herself and has an excellent reputation, both professional and personally.

The sentencing judge, the Hon. N. T. B., is no longer on the bench and the present judge has no objection to the granting of the applicant's petition, nor does the district attorney of Somerset County.

In view of the fact that this applicant has completely rehabilitated herself and the fact that this offense occurred over fourteen years ago, we are recommending that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth,
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Thaddeus Adam Gibson, D-8185, No. A-1610, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Thaddeus Adam Gibson, convicted of robbery and conspiracy in the Court of Oyer & Terminer and Quarter Sessions of Delaware County on March 20, 1945 computed from December 18, 1944, be commuted from 15 years to 10 years, 2 months, expiring on February 18, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty years of age. He has had a prior criminal record and at the present time is serving a sentence of not less than fifteen nor more than thirty years on charges of robbing a victim of Twenty-eight ($28.00) dollars. It is alleged there were ten places in all held up

but this applicant was not involved in all the cases. He was convicted, however, on four offenses.

The Board of Trustees of the Eastern State Penitentiary states that this applicant has an excellent institutional record.

The trial judge is no longer on the bench and the present judge has no recommendation. The district attorney of Delaware County is not opposed to the granting of clemency. In view of the fact that two of applicant's accomplices have had their sentences commuted, and the fact that applicant is the last one of the group to remain in prison, and the further fact that he has served two-thirds of his sentence, we feel that he has been sufficiently punished and we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth,
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of John A. Gilchrist, C-967, No. A-1792, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John A. Gilchrist, convicted of burglary and larceny in the Court of Quarter Sessions of Crawford County on January 3, 1949, computed from December 13, 1948, be commuted from 10 years to 6 years, 2 months expiring on February 13, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-nine years of age. This was his first major conviction. He plead guilty to a commission of the offenses of burglary and larceny and after having plead guilty to these offenses he was sentenced to a term of not less than ten nor more than twenty years in the Western State Penitentiary.

The Board of Trustees of the Western State Penitentiary advises that this applicant has an excellent institutional record.

The trial judge, the Honorable Herbert A. Mook, admits that in this instance he was wrong in sentencing this applicant such a lengthy sentence and he, therefore, recommends that this man's application be granted. The district attorney of Crawford County leaves the matter up to the Board.

All the accomplices were placed on probation and as a result this applicant is the only one entered in a penitentiary. Therefore, since he has now served over nine years, five months of his minimum sentence, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth,
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Carmen Greco, No. 8723, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Carmen Greco, convicted of robbery, armed with an offensive weapon in the Court of Quarter Sessions of Philadelphia County on October 21, 1941, computed from October 15, 1941, be commuted from 20 years to 13 years, 4 months expiring on February 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age and this was his first major conviction. He plead guilty to the crime of robbery, armed with an offensive weapon, and was sentenced to not less than ten nor more than twenty years. He served the full ten years of his sentence and was released on that date.

The Board of Parole has reported that this applicant now is a steady worker. He is making a satisfactory adjustment and bears a good reputation in the community. He asks release from his parole supervision in order that he may be married. As stated by one member of the Board—"He merely wishes to change his Parole Agent."

The Board is impressed with the adjustment this applicant has made in the past three years, and even though the District Attorney of Philadelphia County is opposed to the granting of clemency because he feels it is premature, we feel that having served a total of thirteen years with supervision on a twenty year sentence, he is entitled to some consideration and we, therefore, recommend that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth,
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Fred Green, No. 4451, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Fred Green, convicted of larceny in the Court of Quarter Sessions of Allegheny County on May 17, 1937; further convicted of robbery in the Court of Oyer and Terminer of Allegheny County on May 17, 1937; further convicted of pointing firearms in the Court of Quarter Sessions of Allegheny County on January 16, 1951, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age. This was his first conviction for any offense. He was sentenced on a

charge of larceny and robbery. As to the larceny, his sentence was suspended, but for the robbery he was sentenced to not less than five nor more than ten years in the Western State Penitentiary. He served his entire minimum sentence and has served his maximum sentence while on parole and has been released from parole.

This applicant is an interior decorator in Pittsburgh and he meets many individuals and wealthy people and does work for them. Because of the fact that he has this type of clientele, he does not care to have to refer to the days of his youth when he committed these foolish offenses.

The trial judge is no longer on the bench and the present judge has no recommendation to make. The district attorney of Allegheny County is not opposed to his being granted executive clemency.

In view of the fact that he has completely rehabilitated himself, we are recommending that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Laurence Ambrose Henderson, No. A-2801, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Laurence Ambrose Henderson, convicted of forgery, fraudulent conversion and embezzlement in the Court of Quarter Sessions of Lycoming County on September 7, 1944, computed from February 14, 1944 be commutted from 16 years to 11 years expiring on February 14, 1955.

Our reasons for making this recommendation are as follows:

This applicant is sixty-one years of age. He has no prior record. He committed a crime of forgery, fraudulent conversion and embezzlement of school funds. In all the loot amounted to approximately one hundred sixty thousand dollars. He made restitution in part from funds which he has in his possession.

He has since removed to Philadelphia where he and his wife live, and has been on parole in the State of California. Since he has been on parole three years, the Board of Parole of the State of California has advised that he has had an entirely satisfactory parole record and he has made good adjustment and desires a commutation of his maximum sentence in order that he may complete his adjustment.

This applicant comes from an excellent family, and in view of his rehabilitation since his release the Board feels that he will not again offend and we are, therefore, recommending that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re aplpication of Charles Thomas Himmelsbach, E-3862, No. A-2852, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Charles Thomas Himmelsbach, convicted of sodomy; assault and battery with indecent assault in the Court of Oyer & Terminer and Quarter Sessions of Montgomery County on August 21, 1953. Computed from May 15, 1953 be commuted from 3 years to 2 years expiring on May 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age and has had no prior criminal record. He plead guilty to the offense of sodomy and indecent assault with young girls. He has been examined by a psychiatrist since this affair and it is stated in the psychiatric report, which was handed to the Board that there is no evidence of perversion, nor can this applicant be considered a social threat. It is felt that if this man is supervised and adequate treatment is given that he will not again be a social threat to the community.

Since this is a case of a first offender, and since the Board of Trustees of the State Penitentiary at Rockview is of the opinion that he has made a satisfactory adjustment and has been dependable and cooperative, they are not opposed because of the nature of the act. We feel, however, that further confinement can do very little for this applicant. Release with psychiatric treatment will be merciful. So even though the District Attorney is opposed to the granting of clemency, the Board is of the opinion that commutation is warranted when this applicant has served two years, which will expire on May 15, 1955.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Nathaniel Hodges, E-1012, No. A-2077, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Nathaniel Hodges, convicted of burglary; larceny and receiving stolen goods in the Court of Quarter Sessions of Philadelphia County on April 14, 1949 be commuted from 10 years to 5 years, 10 months expiring on February 4, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty years of age and has no prior criminal record. He plead guilty to burglary, larceny and receiving stolen goods and was sentenced to this very severe of not less than ten nor more than twenty years. At the present time he has served over five years, eight months of his minimum sentence. The applicant is presently confined to the Eastern State Penitentiary where he has an excellent institutional record.

The trial judge is deceased and the District Attorney of Philadelphia County is not opposed.

This applicant's accomplice, who is equally guilty and who had a much longer criminal record, was given a sentence of not less than five nor more than ten years. We feel it would be unfair and unjust to ask this applicant to serve more than his accomplice when he had no prior record and we, therefore, recommend that his sentence be commutted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Howell, George, A-14440, No. A-779, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of George Howell, convicted of murder, in the first degree in the Court of Oyer & Terminer of Beaver County on January 2, 1926 be commuted from life to 29 years, 20 days expiring on January 22, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-six years of age and this was his first conviction for any offense whatsoever. He plead guilty to the commission of murder generally and the court set this offense at murder, in the first degree and sentenced this applicant to life imprisonment. He has now served one-half of his entire life in prison, or on January 2, 1955, the term of twenty-nine years.

The Board of Trustees of the Western State Penitentiary reports that this man has an excellent record and they would recommend commutation.

The trial Judge is deceased and the present Judge leaves the matter of commutation up to the Board. Since this applicant has served such a long period of time with an excellent record, we feel that he will not again offend against society and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth,
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Richard Lauck Hudson, No. 8703, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Richard Lauck Hudson, convicted of assault and battery in the Court of Quarter Sessions of Philadelphia County, on June 14, 1946, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age. This was his first offense. He, together with two accomplices, assaulted and robbed a victim of fifty dollars, after the victim had flashed a sum of money in a tavern. This applicant was on parole until June 1951. During the period of his parole he maintained a good reputation in the community and he showed signs of getting over his youthful instability.

At the present time this applicant is married and following his release from the institution attended Temple University and is now employed as an assistant treasurer of the J. B. Hudson, Ind. Company, which is operated by the applicant's father. The petitioner also is a member of the North East Junior Chamber of Commerce in Philadelphia.

The Board of Parole states he has an excellent record of rehabilitation on parole. We feel that he will not again commit any of these offenses. We, therefore, recommend that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth,
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Howard Walter Hutton, No. 6455, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Howard Walter Hutton, convicted of murder, first degree in the Court of Oyer and Terminer and Quarter Sessions of Lycoming County on February 25, 1933 be commuted from life imprisonment to 22 years expiring on February 25, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-seven years of age. He had no prior criminal record. He was convicted of murder in the first degree and sentenced to life imprisonment. However, after he had served nearly nineteen years his sentence was commuted and he was released on parole.

He has since had a parole plan in New York, where he is living with his brother and his wife, and he is now working with the sister and operating the Garry Nursing Home. He has a good reputation with the Board of Parole of New York and, although they admit his good record, they still think it is premature for him to expect commutation of his maximum sentence, as do the authorities in Lycoming County.

The Board is of the opinion that this applicant has been sufficiently punished, as it is impressed by the rehabilitation that he has made at this time, and because of this rehabilitation, we are recommending that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth,
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Meyer Kligerman, No. A-2838, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Meyer Kligerman, convicted of receiving stolen goods, in the Court of Quarter Sessions of Philadelphia County on March 19, 1926; and convicted of robbery, assault, conspiracy, kidnapping, false imprisonment, carrying concealed deadly weapons in the Court of Quarter Sessions of Philadelphia County on January 29, 1947, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-four years of age. These were the only two offenses for which this applicant was ever convicted. He had arranged to buy a ring which had been stolen but applicant had no knowledge of its theft and he did participate in the Breyer hold-up which was a famous hold-up in its day. For his part in that, he was sentenced to not less than nine months, nor more than twenty-three months and he served this sentence and has since been in no further difficulty.

This applicant was brought to this country at the age of two years and has lived here fifty-two years. He did not realize he was not an American until he was served with a warrant for deportation as a result of these transgressions.

He has a wife and three children, all of whom were born in this country and his family is still dependent upon him. At present the applicant is employed by the Home Frosted Foods, Inc., of Philadelphia, and is not connected with any criminal activities.

The Board of Parole states that the applicant's reputation in the community is good and that he is described as being a good worker and fine home maker.

In view of this applicant's rehabilitation and the possibility of his deportation to Russia, we recommend that his pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth,
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Raymond J. Lipinski, No. 8343-C, No. 6994, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Raymond J. Lipinski, convicted of Armed Robbery, in the Court of Oyer and Terminer, of Allegheny County on July 5, 1940, computed from June 8, 1940, be commuted from 20 years to 14 years, 7 months, expiring on January 8, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 8, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of William Loadholt, E-986, No. A-2835, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Loadholt, convicted of murder in the second degree in the Court if Oyer & Terminer and Quarter Sessions of Philadelphia County on March 29, 1949. Computed from January 1, 1949 be commuted from 10 years to 6 years, 1 month expiring on February 1, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age and this was his first conviction for any serious offense. He plead guilty to murder generally and was found guilty of murder in the second degree and was sentenced to the Eastern State Penitentiary for not less than ten or more than twenty years. He is now confined in the State Penitentiary at Graterford, where the Board of Trustees state that the applicant has a very good Institutional record.

The trial judge, the Honorable Vincent A. Carroll, has advised the Board that the decedent had a worse criminal record for violence and left the matter of clemency up to the Board of Pardons.

Since this applicant had been seriously attacked by the decedent prior to the killing, we believe that he has been sufficiently punished. Although the District Attorney of Philadelphia feels that the application is premature, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Willie London, D-9490, No. A-2799, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Willie London, convicted of murder, second degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on February 26, 1947, computed from October 23, 1946 be commuted from 10 years to 8 years, 4 months expiring on February 23, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age. This was his first major conviction. He was sentenced to not less than ten nor more than twenty years on charges of murder in the second degree. The victim was the applicant's wife and she had been running around with another man for approximately ten years. This applicant thereupon shot his wife and other man. His wife died.

At the present time he has served over eight years in the Eastern State Penitentiary, and has an excellent institutional record.

The trial judge, the Honorable Byron Milner, is not opposed to the granting of clemency in this matter, and the district attorney of Philadelphia County is not opposed. Since he has served over eight years for a first offense, we believe he has been sufficiently punished and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Joseph John Maguire, E-3821, No. A-2861, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph John Maguire, convicted of burglary in the Court of Oyer & Terminer of Philadelphia County on July 23, 1953. Computed from June 30, 1953 be commuted from 3 years to 1 year, 7 months expiring on January 30, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-two years of age. This was his first major conviction. He was sentenced, after being convicted of the offense of burglary, to a term of not less than three nor more than six years. At the present time this applicant has served over one and one-half years of his minimum sentence. His wife appeared and requested that he be granted clemency in order to provide for herself and two-year old son.

The Board of Trustees at the State Penitentiary at Graterford states that this applicant has a very good record.

If granted relief he will be able to reestablish his family and support his wife and child.

The trial judge, the Honorable Raymond MacNeille, leaves the matter up to the Board and the District Attorney of Philadelphia County is not opposed and also leaves the matter up to the Board.

Since this was applicant's first major conviction and since he has now served over one and one-half years of his minimum sentence with an excellent institutional record, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Robert Marchesini, E-4292, No. A-2814, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Robert Marchesini, convicted by robbery in the Court of Oyer and Terminer and Quarter Sessions of Bradford County on February 15, 1954 be commuted from 1½ years to 1 year expiring on February 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-five years of age and he had no prior criminal record. He plead guilty to a charge of robbery and was sentenced to a term of not less than one and one-half nor more than ten years. He, at first, had only a fair institutional record, but for the past four or five months he has had an excellent record.

The District Attorney is not opposed to the granting of clemency in this matter, but the trial Judge, the Honorable W. Rosenfield, is opposed. The Board, however, feels that this was a very severe sentence for a first offender, and we do feel that one year is sufficient under all the circumstances. We, therefore, recommend that this applicant's sentence be commuted to one year, expiring on February 15, 1955.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.

(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of William Marshall, E-112, No. A-1979, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Marshall, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 19, 1948, computed from December 31, 1947 be commuted from 10 years to 7 years, 1 month expiring on January 31, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty years of age. This is his first major conviction. He was sentenced on a plea of guilty to not less than ten nor more than twenty years on charges of robbery. This applicant robbed a taxicab driver and threatened the driver with a knife.

The Board of Trustees of the State Penitentiary at Graterford states that this applicant has an excellent institutional record.

The district attorney of Philadelphia County is not opposed to the granting of clemency since this applicant has now served seven years of his minimum sentence.

Since this applicant has been in prison seven years with an excellent institutional record, we are recommending that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of James Victor Martire, No. A-2857, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that James Victor Martire, convicted of conducting a lottery in the Court of Quarter Sessions of Allegheny County, on February 7, 1941 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age. This was his first conviction. He was sentenced, following his conviction, on the charge of conducting a lottery when a friend left a pack of number slips in his automobile. Although applicant states he did not know what was in the package, nevertheless he was convicted.

The Board of Parole has informed the Board of Pardons that the applicant is a man of good reputation and has been operating a legitimate business for the past several years. The applicant desires this pardon in order that he may apply for a liquor license and also that he may clear his name for himself and family.

In view of the fact that this applicant has a good reputation and the district attorney of Allegheny County is not opposed, we are recommending that this applicant be granted a pardon as he has been in no further difficulty for over fourteen years.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of William J. Meany, E-4205, No. A-2804, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William J. Meany, convicted of larceny by employee in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 22, 1954 be commuted from 2 years to 1 year, expiring on January 22, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-five years of age. He had no prior record. He embezzled funds of his employer, a motor company in Philadelphia, over a period of two years totalling thirteen thousand dollars. He is now confined in the State Penitentiary at Rockview and the Board of Trustees of the State Penitentiary at Rockview states that applicant has an excellent institutional record.

The district attorney of Philadelphia County is opposed to the granting of clemency although the trial judge, the Honorable L. Stauffer Oliver recommends that clemency be granted. This applicant has now served approximately one year of his minimum sentence. The Board feels that having been a first offender with an excellent institutional record and since the trial judge recommends that clemency be granted, this is sufficient sentence if one year is served. We, however, to make it a condition and recommend to your Excellency that this applicant make restitution to his employer for the funds taken.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of John Joseph McGettigan, D-5818, No. 9073, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application haping been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Joseph McGettigan, convicted of robbery, armed with an offensive weapon in the Court of Quarter Sessions of Philadelphia County on June 9, 1941. Computed from May 27, 1941 be commuted from 30 years to 13 years, 8 months expiring in January 27, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-five years of age. He has had a very bad criminal record, including fourteen arrests, seven convictions and one parole violation. After this last offense the applicant spent ten years in the institution before being released and at the present time has been on parole three and one-half years.

The applicant learned the trade of printing while in the institutiin and since his release has been employed in the printing trade. We have a good recommendation from his employer, who states that he is a steady worker and is adjusted well to his job.

The trial judge is deceased and the district attorney leaves the matter of commutation of maximum sentence up to the Board. Since this applicant served ten years and has been on parole three and one-half years, we feel he has been sufficiently punished and in view of his good rehabilitation, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Jerry McLaurin, D-9556, No. A-1150, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Jerry McLaurin, convicted of burglary in the Court of Quarter Sessions of Philadelphia County on March 31, 1947, computed from November 5, 1946 be commuted from 15 years to 8 years, 3 months expiring on February 5, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-five years of age and this was his first conviction for any offense. He was sentenced on a plea of guilty to not less than fifteen nor more than thirty years in the Eastern State Penitentiary. He has an excellent institutional record and the trial judge is now deceased. The district attorney of Philadelphia County is not opposed to the granting of clemency in this matter. Both accomplices were sentenced to not less than seven and one-half nor more than fifteen years, and they have now served their sentences and are released.

In view of the fact that this applicant had no worse record than his accomplices we recommend that his sentence be brought into line with the accomplices' sentence, and we recommend that clemency be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, Jr.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Robert L. Miller, A-2308, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Robert L. Miller, convicted of assault and battery; aggravated assault and battery in the Court of Quarter Sessions of Philadelphia County, on June 18, 1941 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-three years of age. He had no prior record. He was the owner of certain property and when he went to collect the rent he got into a fight and was hit across the face and he grabbed an ice pick and stabbed one of his assailants. He had an excellent reputation and these offenses occurred more than thirteen years ago. He is now a detective operating a private detective agency and in the process of his job he needs to carry a gun. He, therefore, desires to secure this license but having been convicted of this offense he cannot do so without first having obtained a pardon.

The Board of Paroles advises us that this applicant has an excellent reputation. The district attorney of Philadelphia County is not opposed.

Since this applicant has no prior record and since he has been in no further trouble for a period of over thirteen and one-half years, we are recommending to your Excellency that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, Jr.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Francis X. Morin, Jr., C-146, No. 7528, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Francis X. Morin, Jr., convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer of Allegheny County on May 5, 1947, com-

puted from March 6, 1947, be commuted from 10 years to 7 years, 11 months, expiring on February 6, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-three years of age. This is not the first time that he has been in the toils of the law. In fact he has ben consistently involved since 1938. This applicant and six accomplices, committed a seriees of robberies in Allegheny County and Westmoreland County and upon apprehension this applicant pleaded guilty. At the present time this applicant has served almost eight years of his minimum sentence.

The Board of Trustees of the Western State Penitentiary states this applicant has an excellent institutional record and they have no objection to clemency being granted at this time as his interest in his work and present attitude are favorable. All the accomplices have been released and since this applicant had a worse criminal record than the others naturally he was required to spend more time in the institution. Having spent more time in the institution than his accomplice, we now recommend that his sentence be commuted.

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, Jr.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Jean Victoria Nehr, No. A-2845, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Jean Victoria Nehr, convicted of larceny and receiving stolen goods in the Court of Oyer & Terminer of Erie County, on May 11, 1933 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-six years of age. She had no prior criminal record. She was sentenced on a conviction of larceny and receiving stolen goods in the sum of six dollars, but the testimony that resulted in the conviction was of very weak nature. This offense occurred more than twenty years ago and is now made the basis for a deportation proceeding to Poland. She arrived in this Country when a small girl and the basis for deportation is because of her leaving the Country to go to a Convention in Cuba.

The trial Judge, the Honorable U. P. Rossiter has no objection to the granting of clemency and the District Attorney has none, either. In view of the fact that this woman would be deported to Poland, which would be a cruel and unusual punishment, we therefore recommend to your Excellency that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of John O'Lock, D-7887, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John O'Lock, convicted of burglary and felonious assault with intent to kill, in the Court of Oyer & Terminer and Quarter Sessions of Dauphin County on September 21, 1944 and computed from September 5, 1944, be commuted from 20½ years to 10 years, 5 months, expiring on February 5, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age and has had a bad prior criminal record. He has had three convictions and two parole violations of Juvenile sentences and is now serving a term of not less than twenty and one-half nor more than forty-one years. He has now served one-half of his minimum sentence.

The trial Judge has made no comment and the District Attorney of Dauphin County is not opposed. The Board of Trustees of the Eastern State Penitentiary states that this applicant has an excellent record.

In view of the fact that he has now served more than ten years, three months, with an excellent record, we feel that he has been sufficiently punished and we, therefore, recommend that the balance of his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Michael Pagan, B-8416, No. A-2811, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Michael Pagan, convicted of robbery, armed with an offensive weapon, in the Court of Oyer & Terminer of Allegheny County on December 16, 1942. Computed from April 3, 1950, be commuted from 10 years to 4 years, 10 months, expiring on February 3, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty years of age. He has had a rather extensive criminal record and this was not his first major conviction. He received a very severe sentence of not less than ten nor more than twenty years, and since he was on parole at the time of the happening of this offense, he was required to serve nearly eight years before he began service of this sentence.

At the present time this applicant has served approxi-

mately twelve years and he has an excellent institutional record. The accomplice of this applicant has not been released from the institution because of his previous criminal record. However, it should be pointed out that neither the trial Judge, the Honorable Frank Graff, nor the District Attorney of Allegheny County are opposed to the granting of this case.

Therefore, since this applicant has served such a long period of time, we are recommending that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Joseph Parness, E-3792, No. A-2557, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Parness, convicted of robbery, armed with an offensive weapon, etc., in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on July 1, 1953, be commuted from 2 years to 1 year, 7 months, expiring on February 1, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-one years of age. He had no prior criminal record. He held up a theatre and secured One Thousand Dollars in loot. For this offense he was sentenced to not less than two nor more than ten years in the Eastern State Penitentiary. At the present time he is confined in the State Penitentiary at Rockview. The Board of Trustees of the State Penitentiary Rockview states that this applicant has an excellent institutional record.

The district attorney of Philadelphia County is not opposed to the granting of clemency. Since this applicant was a first offender and has served one year and six months of his minimum sentence we feel that he has been sufficiently punished and we are recommending that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Raymond T. Patchan, No. A-2850, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Raymond T. Patchan, convicted of robbery, in the Court of Oyer & Terminer of Allegheny County on April 5, 1954, computed from March 12, 1954, be commuted from an indeterminate term to 1 year, expiring on March 12, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty years of age and this is his first major imprisonment. He was sentenced to the Pennsylvania Industrial School for having held up and robbed a Tavern. He was placed in the School for an indeterminate sentence, which, under this crime, could mean imprisonment until six years.

The Board of Trustees of the Pennsylvania Industrial School makes no recommendation in this case. We feel this applicant was the victim of circumstances and if he is granted clemency he will not be inclined to become involved again, as this applicant comes from a good family.

The trial Judge, the Honorable Russell Adams, is not opposed to the granting of clemency. Since this applicant has now been imprisoned more than eight months, and if released will not be inclined to repeat, we are recommending that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Walter Pearson, E-2586, No. A-2086, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Walter Pearson, convicted of fraudulently making a written instrument, etc., in the Court of Quarter Sessions of Philadelphia County on October 17, 1951, computed from September 28, 1951, be commuted from 5 years to 3 years, 5 months, expiring on February 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-six years of age. This was his first major conviction. He was convicted of the crime of fraud and making a written instrument and was given the maximum sentence of imprisonment. At the present time this applicant has served over three years of his minimum sentence.

The Board of Trustees of the State Penitentiary at Graterford states this applicant has an excellent institutional record and it is stated that he is completely freed of the drug habit.

The trial judge, the Honorable Curtis Bok, has stated that he has no recommendation to make in this matter. The district attorney of Philadelphia County is not opposed to the granting of relief. Since this applicant has served over three years of his minimum sentence of five years, with an excellent institutional record, and since

the trial judge and the district attorney are not opposed, we feel that he has been sufficiently punished when his accomplice was released over one year ago, and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Frank Pepe, D-3226, No. 8170, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Frank Pepe, convicted of Murder, in the First Degree, in the Court of Oyer & Terminer and Quarter Sessions of Delaware County on June 29, 1938, be commuted from life to 16 years, 7 months, expiring on January 29, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age and this was his first conviction for any offense. He plead guilty to the charge of murder generally and was sentenced to life imprisonment upon a finding of first degree murder by the court. This applicant has now served nearly sixteen and one-half years of his life sentence and during all that time he has had an excellent institutional record.

The Honorable H. L. Ervin, who was a member of the Court at the time this applicant was convicted, has no recommendation to make. The District Attorney of Delaware County is not opposed.

The Board feels that since this applicant has now served nearly sixteen and one-half years with an excellent institutional record, and since the authorities are not opposed, he should be granted clemency. Therefore, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Stuart E. Phelps, C-1376, No. A-2750, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Stuart E. Phelps, convicted of burglary, in the Court of Oyer and Terminer of Allegheny County on September 28, 1949, computed from September 15, 1949, be commuted from 15 years to 5 years, 5 months, expiring on February 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty years of age. This was his first major conviction. He was sentenced for a series of burglaries, there being thirty-five in which this applicant was involved. At the present time he has served over five years with an outstanding record in the institution. During his incarceration he has become an X-Ray laboratory technician in the prison hospital and will be able to be placed in this field upon his release.

The district attorney of Allegheny County is not opposed, but the trial judge, the Honorable William H. McNaugher, feels that this applicant has a chronic, aggressive, psychopathic personality. Therefore, we are recommending to your Excellency that commutation be granted but only on condition that this applicant receive and continue to receive psychopathic care and treatment until he is presumed cured and the psychiatrist so notifies the Board of Parole.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Joseph Pulaski, No. A-2844, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Pulaski, convicted of robbery and burglary, etc., in the Court of Quarter Sessions of Schuylkill County on May 20, 1950, be commuted from 5 years to 4 years, 8 months, expiring on January 20, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age and he had no prior criminal record. He plead guilty to a commission of fifteen robberies and at the present time has served four years, eight months of his minimum sentence of five years.

The Warden of the Schuylkill County Prison recommends this applicant for clemency and the trial Judge, the Honorable Cyrus M. Palmer and the District Attorney of Schuylkill County are not opposed to the granting of clemency, but leave the matter of commutation up to the Board.

Since this applicant has served four years of his minimum sentence with an excellent institutional record and since the authorities in Schuylkill County are not opposed, we feel he has been sufficiently punished and recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.

(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Bruce Thomas Reichelderfer, E-881, No. A-1630, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Bruce Thomas Reichelderfer, convicted of statutory rape, in the Court of Oyer and Terminer and Quarter Sessions of Northumberland County on February 8, 1949, computed from February 2, 1949, be commuted from 7½ years to 6 years, expiring on February 2, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-four years of age. This was his first major conviction. He plead guilty to the offense of statutory rape and was sentenced to the Eastern State Penitentiary for a term of not less than seven and one-half nor more than fifteen years. There is no doubt about the offense being rape as it was with force and against the will of the victim, who was but thirteen years of age.

Since this was applicant's first conviction he has served nearly six years of his minimum sentence and this is his second request for executive clemency.

The Board of Trustees of the State Penitentiary Graterford states that this applicant has a very good institutional record.

In view of the fact that this applicant has served nearly six years with an excellent institutional record, we believe he has been sufficiently punished and we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Cecelia Riebel, No. A-2858, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Cecelia Riebel, convicted of counterfeit and forgery, in the Court of Quarter Sessions of Allegheny County, on September 15, 1938 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-nine years of age and this was the only offense for which she was ever convicted. The facts surrounding this offense were that in 1938 this applicant forged a check which was cashed in the sum of one hundred and thirty-five dollars.

The Board of Parole has reported to the Board of Pardons that this applicant is cashier in the New Dixon Restaurant in Pittsburgh and that she has made an honest effort to rehabilitate herself.

The trial Judge is not available for comment and the District Attorney leaves the matter of pardon to the Board.

Since this applicant has made an honest living for the past fifteen years and nine months, we are recommending that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Joseph Rubolino, No.-2313, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Joseph Rubolino, convicted of keeping a gambling house, in the Court of Quarter Sessions of Allegheny County on May 21, 1942 and on December 17, 1942; and convicted of conducting a lottery in the Court of Quarter Sessions of Allegheny County on November 25, 1948, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-three years of age. He had no prior record. He plead guilty to the operation of a gambling house and number writing. These offenses all occurred between 1942 and 1948 and since that time the applicant has an excellent reputation and for the past six years he has had a good reputation, is considered an honest law-abiding family man.

At the present time this applicant is half-owner of a restaurant and cafe in McKees Rocks and states he is eager to have a pardon so that he may have a clean record for the sake of his children.

Since this applicant has completely rehabilitated himself and since he is no longer considered offensive, but a reputable family man we recommend that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Joseph Sessa, E-902, No. A-1658, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Sessa, convicted of burglary, larceny, receiving stolen goods, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 24, 1949, computed from July 22, 1948, be commuted from 8 years to 6 years, 6 months, expiring on January 22, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-nine years of age. This was his first major conviction. He was sentenced to not less than eight nor more than twenty years for offenses consisting of burglary, larceny and receiving stolen goods.

This applicant is presently confined in the State Penitentiary Graterford and the board of Trustees of the State Penitentiary Graterford states that this applicant has an excellent record.

The trial judge is deceased and the district attorney of Philadelphia County is not opposed to the granting of clemency in view of the fact this applicant has served over thre-fourths of his minimum sentence. Since this applicant was virtually a first offender and since this was his first major conviction we are recommending that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.

(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Sidney Shuster, D-9442, No. 9144, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Sidney Shuster, convicted of setting fire to defraud insured, in the Court of Oyer and Terminer of Adams County, on February 1, 1947 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age. He had no prior criminal record. He plead guilty to the crime of setting a fire to defraud insurer and was sentenced to not less than one and one-half nor more than three years. He set fire to his sister's truck because business was bad and he thought she would recoup his losses through inurance.

This applicant served his minimum sentence and has been in no further difficulty for a period of approximately six years, five months. His accomplice has also served his minimum sentence.

In view of the fact that this applicant has not had any former, or subsequent difficulty with the law, we feel that he has completely rehabilitated himself and we, therefore, recommend that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Samuel Silverman, No. A-2642, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Samuel Silverman, convicted of pool selling and bookmaking and conspiracy on December 2, 1957; further convicted of pool selling, conspiracy and bookmaking on June 16, 1948; further convicted of pool selling and bookmaking and conspiracy on September 27, 1949; further convicted of pool selling and bookmaking and conspiracy on December 13, 1950 in the Court of Quarter Sessions of Philadelphia County, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-three years of age. He, over a period of three years, became involved on four separate occasions in gambling and bookmaking. However, since 1950 the applicant has not been involved in any gambling offenses. He has since purchased and operates the Dave Shore Restaurant in Philadelphia. He wants to enlarge this business and increase his capacity. To do so he will have to have a mortgage and he is fearful that if this pardon is not granted he will be unable to secure the necessary credit arrangements.

The Board of Parole states that this applicant has what is known as an average good reputation. The various trial judges have not seen fit to advise the Board as to their positions in this matter. The district attorney of Philadelphia County, however, is opposed to any further clemency. We believe that this applicant is divorced from any criminal activities and will not again affend against society and we, therefore, recommended that his pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of George Clark Skidmore, No. 9183, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum

sentence of George Clark Skidmore, convicted of murder, first degree, in the Court of Oyer and Terminer of Allegheny County on April 24, 1936, be commuted from life imprisonment to 18 years, 10 months, expiring on February 24, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-four years of age. This was his first major conviction. He, together with two accomplices, committed a robbeery of a gas station and an attendant was shot and killed. The applicant served approximately sixteen and one-half years before he was released on parole and it should be pointed out that this applicant, after the commission of this offense, re-escaped and went to Idaho where he lived for a period of six years before being apprehended.

Since his release on parole, this applicant has returned to Idaho and has become as completely rehabilitated as it is possible for anyone to be rehabilitated and many of the persons in the community of Clearwater, Idaho, where he now lives, recommend him highly to this Board. We feel this applicant has been completely rehabilitated, and since that is so, we are recommending that this applicant's maximum sentence be commuted, although the district attorney of Allegheny County considers it premature.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Randall Smith, 1954 D, No. 7519, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Randall Smith, convicted of robbery, armed with an offensive weapon and armed robbery with accomplice, in the Court of Oyer and Terminer and Quarter Sessions of Monroe County on February 13, 1942, computed from February 11, 1942, be commuted from 20 years to 12 years, 11 months, expiring on January 11, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 11, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

In re application of Thomas James Snyder E-3004, No. A-2159, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Thomas James Snyder, convicted of burglary, in the Court of Quarter Sessions of Lackawanna County on May 12, 1952, computed from May 8, 1952, be commuted from 4 years to 3 years, expiring on May 8, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-three years of age and this was his first major conviction. He was convicted of burglary in four places and was sentenced to a term of not less than four nor more than ten years in the Eastern State Penitentiary. He has now served approximately two and one-half years of his minimum sentence.

The Board of Trustees of the Eastern State Penitentiary state that this applilcant has an excellent institutional record.

We have received a report from the trial judge and the district attorney, who state that they leave the matter of clemency up to the Board of Pardons. We, however, feel that this applicant is entitled to some consideration and we are recommending that his sentence be commuted on May 8, 1955, when he shall have served three years.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of William Snyder C-1789, No. A-1752, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Snyder, convicted of breaking and escaping prison, in the Court of Quarter Sessions of Centre County on February 2, 1950, be commuted from 6 years to 4 years, 5 months, expiring on January 26, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age. He has had a bad criminal record. He plead guilty to an offense which was a parole violation on a charge of burglary in 1943. While serving this sentence, he escaped from the State Penitentiary at Rockview. He was returned, given a sentence of not more than twenty years nor less than six, and required to serve his entire minimum sentence. At the present time this applicant has been confined for

over eleven years but only four years three months apply on this sentence because of his prior sentence and the requirement that he be made to serve his full minimum sentence.

The Board of Trustees at Western State Penitentiary states that this applicant has an excellent institutional record and they would recommend commutation.

Both the trial Judge and the District Attorney of Centre County state that he could be considered for clemency, but they leave the matter up to the Board.

In view of the fact that this applilcant has served four years, three months of his minimum sentence of six years, and the further fact that the authorities leave this matter up to the Board, we feel that he has been sufficiently punished and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Phillip Steinman, No. A-2832, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Phillip Steinman, convicted of assault and battery; aggravated assault and battery, in the Court of Quarter Sessions of Philadelphia County, on November 3, 1939 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-five years of age. He had no prior record. He was sentenced to serve ninety days for beating up his step-father. This occurred when the boy was approximately eighteen years of age and for the past sixteen years he has been in no further difficulty.

The Board of Parole states that this applicant has a good reputation and the trial judge is deceased. The district attorney of Philadelphia County is not opposed to the granting of clemency.

Since this applicant has an excellent record for the past sixteen years and has been in no further difficulty, and since he served in the United States Army and is now attempting to secure a bachelor of science degree at Temple University, we recommend that his pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of John Tedesco, No. 946-D, No. 4656, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Tedesco, convicted of robbery, armed with offensive weapon, in the Court of Oyer and Terminer, Quarter Sessions of Philadelphia County, on March 12, 1937, computed from March 5, 1937, be commuted from 20 years to 17 years, 9 months, 20 days, expiring on December 25, 1954.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 5, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVINGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Regis C. Thornton, No. A-2867, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Regis C. Thornton, convicted of bigamy, in the Court of Quarter Sessions of Allegheny County, on December 15, 1933. be pardoned.

Our reasons for making this recommendation are as follows:

This applilcant is forty-two years of age and has had no prior record. He was placed on probation for the commission of a bigamous marriage which really resulted through negligence on the part of this applicant.

At this time the applicant has not been in any further trouble for over twenty-one years and we are advised that he has had a complete coronary collapse. In view of his physical condition and the fact that he is remarried and he has completely rehabilitated himself at the present time as the Chief of Police of The Dalles, Oregon.

In view of this applicant's excellent record of rehabilitation we recommend that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.

(Sgd) WILLIAM S. LIVINGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Janos Toth, No. A-2865, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Janos Toth, convicted of aggravated assault and battery with intent to kill, in the Court of Oyer and Terminer and Quarter Sessions of Lehigh County, on June 27, 1922, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-nine years of age and has had four prior arrests. However, he seeks this pardon for this offense, which occurred more than thirty years ago, on the grounds that at present a warrant of deportation has been filed upon him and he is liable to be deported to Hungary.

This applicant served in the Armed Forces of the United States in 1921 and received an honorable discharge. He is married and is engaged in the hauling and trucking business. This applicant was of the opinion that service in the United States Army made him a citizen of the United States. This, he recently learned when served with the warrant of deportation, to be erroneous.

He has not been in any further trouble since the offense for which he seeks pardon and, therefore, we are recommending that a pardon be granted in order that he may escape deportation.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVINGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Anthony Joseph Trebino, E-3009, No. A-2849, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Anthony Joseph Trebino, convicted of robbery, etc., in the Court of Quarter Sessions of Delaware County on May 22, 1952, computed from April 16, 1952, be commuted from 10 years to a new minimum of 2 years, 10 months, expiring on February 16, 1955; and that the minimum sentence of Anthony Joseph Trebino, convicted of robbery and violation of the Firearms Act in the Court of Quarter Sessions of Montgomery County on June 6, 1952, be commuted rfom 5 years to a new minimum of 2 years, 8 months, 10 days, expiring on February 16, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty years of age. He had no prior criminal record. He plead guilty to robbery and violation of the Uniform Firearms Act. He has now been in prison for a term of two years seven months. He has made an adequate adjustment in the State Penitentiary at Graterford. We believe that he received a very severe sentence for the commission of these armed robberies.

One of the applicant's accomplices had his sentence commuted in 1954.

Since this applicant has served more than two years eight months of his minimum sentence with no worse prior criminal record than his accomplice we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Tony Varacalli, B-6453, No. A-332, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Tony Varacalli, convicted of murder, first degree in the Court of Oyer and Terminer of Allegheny County on December 16, 1938, be commuted from life imprisonment to 16 years, 2 months, expiring on February 16, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty years of age. This was his first conviction for any offense whatsoever. He killed his fiancee in an emotional outburst that resulted from the advice that the victim gave the applicant that she was pregnant by this applicant. When the verdict was returned the trial judge felt so strongly about it that he stated he felt the verdict was excessive and should not have risen higher than second degree murder and offered the applicant a new trial at that time. The applicant was so remorseful that under the circumstances existing he refused a new trial. That being the case, the Court was under the duty of sentencing him in accordance with the recommendation of the jury, which was life imprisonment.

At the present time this applicant has now served over sixteen years of his life sentence. The Board of Trustees of the Western State Penitentiary states this applicant's institutional record has been excellent with never a misconduct report and they recommend him.

The trial judge, the Honorable J. Frank Fraff, who felt it was only second degree murder, leaves the matter up to the Board and the district attorney of Allegheny County is not opposed.

Since this was an emotional killing and since the applicant has now served over sixteen years of his minimum sentence, we are recommending that the sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.

(Sgd) FRANK F. TRUSCOTT.
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of James Vaughn, E-3022, No. A-2789, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Vaughn, convicted of sodomy and aggravated assault and battery, in the Court of Oyer and Terminer of Chester County on May 28, 1952, be commuted from 5 years to 3 years, expiring on May 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-five years of age. This was his first conviction for any offense. He was sentenced to a term of not less than five nor more than thirteen years on charges of sodomy and aggravated assault and battery. The victim was the active party in the sodomistic act and this applicant was the pathic partner, and he beat up his victim and took $25.00 from him.

At the present time the applicant has served over two and one-half years in the State Penitentiary at Graterford and the Board of Trustees states that he has a very good institutional record.

The trial Judge is opposed and we feel that this applicant, for a first offender, received a very severe sentence. Therefore, under the circumstances, we feel that he should be given consideration when he shall have served three years, and we so recommend.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT.
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of William Vogdes, III, No. A-2802, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that William Vogdes, III, convicted of robbery, together with other persons in the Court of Oyer and Terminer of Montgomery County, on April 5, 1954, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty years of age. He had no prior record. He and two accomplices were drinking and this applicant, who had not ever participated of alcoholic beverages, passed out. While he was unconscious, his two accomplices committed an armed robbery and he, of course, plead guilty to avoid unfavorable publicity. It should be pointed out that this applicant is now serving in the Marine Corp of the United States and is in Japan on detail.

This applicant desires to enter medical school and cannot do so if he is not granted this pardon.

In view of the fact that he did not participate in this offense and comes from a good family, we are recommending that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT.
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Joseph B. Ware, No. 2109, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph B. Ware, convicted of Murder, in the first degree in the Court of Oyer and Terminer of Erie County on April 18, 1928, be commuted from life to 26 years, 10 months, expiring on February 18, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-three years of age. He has now served more than twenty-six years of a life sentence. This offense occurred when he was seventeen years of age so that he has now served more than one-half of his entire life in the institution.

He was the innocent dupe and was under the influence of his three accomplices, all of whom were electrocuted. He has an excellent record in the Western State Penitentiary and the Board of Trustees would recommend he be commuted.

The authorities in Erie County are not opposed to his release.

Since this applicant has an excellent institutional record and since he has served such a long period of time and since the authorities are not opposed, we recommend his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT.
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of G. Harmon Webb, No. 7586, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that G. Harmon Webb, convicted of embezzlement and fraudulent conversion in the Court of Quarter Sessions of Delaware County on March 26, 1943, and on April 12, 1946, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-one years of age. He had no prior record. He plead guilty to the charges of embezzling and fraudulent conversion of funds of clients. He served his minimum sentence.

This applicant has now completely rehabilitated himself and is employed by the Crockett Mortgage Company of Philadelphia. He was responsible for the financing of several real estate projects. He has been in no further difficulty for eleven years nine months, and we feel that he has learned his lesson and has been completely rehabilitated and we, therefore, recommend that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT.
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Heber Westover, B-4507, No. 5308, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Heber Westover, convicted of murder in the first degree in the Court of Oyer and Terminer of Indiana County on April 1, 1935, be commuted from life imprisonment to 19 years 10 months, expiring on February 1, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-seven years of age. He had no prior record. The applicant has now served nearly twenty years of a life sentence. An investigation of his previous life shows that prior to this offense he was a steady worker and bore a good reputation. It is very difficult for the Board to feel that this applicant could have done this without being mentally deranged at the time this offense took place.

The Board of Trustees of the State Penitentiary at Rockview advises this applicant has an excellent institutional record and they further state he has shown much self-improvement during his confinement.

The trial judge is deceased and the present judge is not opposed. The present district attorney of Indiana County has no comment.

In view of the fact that this applicant has now served nearly twenty years with an excellent institutional record, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT.
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Thomas Wheatley, Sr., E-4309, No. A-2853, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Thomas Wheatley, Sr., convicted of assault and battery with intent to kill, in the Court of Quarter Sessions of Bucks County on February 19, 1954, be commuted from 3½ years to 1 year, expiring on February 19, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-two years of age. This is his first criminal conviction. This applicant committed and assault and battery with intent to kill on a police officer, seriously wounding the police officer and causing him to be hospitalized for several weeks.

At present time this applicant is in the State Penitentiary at Graterford and he has a good institutional record. This applicant settled a civil case for damages in the sum of twenty thousand dollars on the police officer that he assaulted.

Although the officials in Bucks County feel that it is premature, the Board is of the opinion that this applicant is not a criminal and that he bore a good reputation in the community in which he lived. The Board is of the further opinion that having once entered prison he was as completely punished as any individual could possibly be and since he has now served over ten months of his minimum sentence, we feel that he has been sufficiently punished and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT.
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of White, Harry, 7067, No. 5608, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harry White, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia on December 13, 1933, computed from January 23, 1940, be commuted from 30 years to 15 years expiring on January 23, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 23, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT.
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of James Williams, C-1677, No. A-2164, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Williams, convicted of the crime of felonious attempt and felonious use of explosives, in the Court of Quarter Sessions of Susquehanna County on August 22, 1922, be commuted from 9 years to 2 years 7 months, expiring on February 15, 1955 (10 months 22 days credit given for time served before escape); and recommend that the maximum sentence of James Williams, convicted of the crime of breaking and escaping from penitentiary in the Court of Quarter Sessions of Philadelphia County on August 1, 1952, be commuted from 4 years to 1 day, expiring on February 16, 1955; and recommend that the maximum sentence of James Williams, convicted of the crime of breaking and entering a building in the night time to commit a felony in the Court of Quarter Sessions of McKean County on December 11, 1918, be commuted from 4 years to 1 day, expiring on February 17, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-eight years of age. He is serving a term in the Eastern State Penitentiary. This applicant has been continuously involved with the law since 1926 and both in New York State and in Pennsylvania and has recently returned to Pennsylvania on July 15, 1952, when he began serving the nine to eighteen years for felonious use of explosives.

The Board is impressed with the fact that this inmate is recommended for commutation because he has now been continuously imprisoned for twenty-eight years and by the fact that the Board of Trustees of the Eastern State Penitentiary recommend him for commutation because of his excellent adjustment and maturity which he has shown in his advancing age.

Under the circumstances we recommend that the sentence of this applicant be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Ray Williams, No. 7706, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of Board of Pardons recommend that the maximum sentence of Ray Williams, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Luzerne County, on November 16, 1935, computed from November 8, 1939, be commuted from 20 years to 15 years 3 months, expiring on February 8, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-five years of age and this is the first serious offense in which he was ever involved. However, he has had prior arrests. He served his minimum sentence on this offense of ten years and has now been on parole for more than four years. All his accomplices have had their sentences commuted before the expiration of the applicant's minimum sentence, one having been released from the penitentiary as early as 1943.

Since his release the Board of Parole has referred to this applicant as having made a good adjustment and they have no objection to commutation of maximum sentence.

The applicant appeared before us in person and explained his present position and the adequate adjustment which he has made. This is testified to by his advisor and friend, Colonel F. Dickinson Shaw, of Philadelphia.

The trial judge, the Honorable W. Alfred Valentine, leaves the matter of commutation of maximum sentence up to the Board, but the district attorney of Luzerne County, who, thinking that this was an application for pardon, is opposed. However, we believe if he were aware that all this applicant asks is a commutation of maximum sentence, he would not be opposed.

Since this applicant has served in prison nearly fifteen years and since he has been on parole over four years, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Russell Engle Wood, Jr., No. A-2815, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due

public notice, in open session, the undersigned members of the Board of Pardons recommend that Russell Engle Wood, Jr., convicted of Driving while under the influence of intoxicating liquor, in the Court of Quarter Sessions of Montgomery County, on September 5, 1952, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty-two years of age. He had no prior record. He plead guilty to driving while under the influence of intoxicating liquor. This offense occurred more than two years ago. At the present time the applicant is a corporal in the United States Army, serving in Korea.

He desires to continue his studies in Penn State University upon conclusion of his army service, leading eventually to a position in the field of education. Unless he is granted a pardon it would be practically impossible for him to secure a position in his chosen profession.

In view of the fact that he has a good reputation, comes from a good family, and is serving his country, we recommend that a pardon be granted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Stephen Wyjadka, E-1984, No. A-2843, December Session, 1954.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Stephen Wyjadka, convicted of receiving stolen goods, in the Court of Oyer and Terminer of Philadelphia County on May 21, 1948, computed from September 1, 1950, be commuted from 12½ years to 4 years 5 months, expiring on February 1, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age and this was his first major conviction. He was arrested and charged with the selling of thirty-one automobiles. He was sentenced to a term of not less than twelve and one-half nor more than twenty-five years and is now confined in the State Penitentiary at Graterford. The trustees of the State Penitentiary a Graterford advises that his applicant has an excellent institutional record.

The trial judge is deceased and the district attorney of Philadelphia leaves this matter up to the Board. Although this applicant has been continuously confined for over six years, seven months, only four years, three months apply because the other time was spent in the institution serving a violation sentence.

Since this applicant has served such a long period of time and since this was his first major conviction we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) LLOYD H. WOOD,
Lieutenant Governor.
(Sgd) GENE D. SMITH,
Secretary of the Commonwealth.
(Sgd) FRANK F. TRUSCOTT,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) JOHN S. FINE,
Governor.

BOARD OF PARDONS

In re application of Earl Allen, 6161-D, No. 4682, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Earl Allen, convicted of burglary and rape in the Court of Oyer and Terminer of Allegheny County on December 13, 1932 be commuted from 10 years to 1 year, 3 months expiring on March 13, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 12, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Almeida, 1044-B, No. 5708, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph Almeida, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 25, 1937 be commuted from 15 years to 13 years expiring on March 25, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 25, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Austin Baughman, C-2998, No. A-2294, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Charles Austin Baughman, convicted of breaking and escaping prison in the Court of Quarter Sessions of Centre County on October 29, 1949, computed from February 27, 1953 be commuted from 4 years to 2 years, 1 month expiring on March 27, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-seven years of age. This conviction arose by reason of his escaping from the State Penitentiary at Rockview while serving a sentence in that institution for robbery. As a result of this conviction he was required to serve over four years before being paroled to begin the escape sentence. This applicant has now served approximately two years of his minimum sentence of four years on the escape so that he has been continuously imprisoned for more than seven years.

Neither the trial judge, the Honorable Ivan Walker, nor the district attorney of Centre County are opposed. They leave the matter of commutation up to the Board.

Since this applicant has had only one prior arrest for disorderly conduct and has since had an excellent record in the institution, we feel that he has been sufficiently punished for this escape and we are recommending that the escape sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Philip Cavan, 4021-C, No. 4693, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Philip Cavan, convicted of murder in the first degree in the Court of Quarter Sessions of Luzerne County on June 18, 1931 be commuted from life to 23 years, 9 months expiring on March 18, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Herman Crockett, 2485-B, No. A-2871, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Herman Crockett, convicted of burglary and receiving stolen goods in the Court of Oyer and Terminer of Allegheny County on September 22, 1938, computed from September 2, 1938 be commuted from 10 years to 6 years, 6 months expiring on March 2, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 2, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commutted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph DeLuca, 9135-A, No. 3908, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph DeLuca, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 25, 1936, computed from that date be commuted from 20 years to 18 years, 9 months expiring on February 25, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 10, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John J. Edson, IV, No. A-2910, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that John J. Edson, IV, convicted of Involuntary manslaughter in the Court of Oyer and Terminer of Allegheny County, on December 11, 1952 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age. He has no prior criminal record.

The facts briefly are that the applicant, and his three accomplices, who had been drinking, teased the victim about his ability to jump off a high bridge into a river near Pittsburgh. As a result of the teasing, victim agreed to jump off the bridge, which he did, and subsequently drowned. The applicant was arrested and charged with involuntary manslaughter to which he plead nolo contendere and was thereupon sentenced to pay a fine of Two Hundred Dollars and placed on probation for one year.

At the time of the happening of this offense the applicant was a student and has since graduated from the University of Pittsburgh and is now holding a responsible position with an oil drilling company in Tulsa, Oklahoma. The Board of Parole indicates this applicant bears an excellent reputation, comes from a good family in Pittsburgh, and up to the time of the happening of this tragic episode bore an excellent reputation.

Both the trial judge, the Honorable J. Frank Graff, and the district attorney of Allegheny County, leave the matter of pardon up to the Board.

The Board is of the opinion that this unfortunate tragedy resulted in a negative act by the applicant rather than in a positive act such as is usually found in involuntary manslaughter cases. The Board is further of the opinion that it would be difficult to see how this applicant could have been convicted of involuntary manslaughter had he stood trial, and they are further supported in that decision by reason of the fact that this applicant was once tried and the jury was discharged because they could not agree upon a verdict. In order to spare this applicant and his family from further publicity the plea of nolo contendere was entered.

In view of all the facts and in order that this conviction should not prevent this applicant from further advancement in his choosen field of endeavor, we recommend that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBET B. COHEN—Dissents,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Theodore Elliott, No. A-1615, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the death sentence of Theodore Elliott, who pleaded guilty to murder generally, which was adjudged by the Court to be murder in the first degree, in the Court of Oyer and Terminer and General Jail Delivery of Philadelphia County on April 10, 1951, be commuted from death on April 10, 1951, be commuted from death to life imprisonment.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age. He was convicted of murder committed in the perpetration of an armed robbery and sentenced to death. All legal avenues of appeal were exhausted both in the State and Federal Courts. Once before, in October, 1952, applicant petitioned the Board of Pardons for commutation of the death penalty, but was refused. However, there are many unusual factors in this case, factors which the present Board believes compel a recommendation for clemency. It must be remembered that the function of the Board of Pardons is to act once legal remedies in the courts no longer are available. The Board is not a court; the adequacy or inadequacy of legal argument is not necessarily binding on the Board. In this sense it serves to fill the vacuum which the law itself cannot supply: that last resort of executive clemency. And it is precisely because the case at hand presents so many conflicting problems, because the legal

and the extra-legal considerations are so intertwined here, that the present Board has seen fit to exercise its power to recommend clemency.

Theodore Elliott is certainly a mental defective. A reputable psychiatrist has stated that he is mentally ill and was such prior to 1950. Elliott's history reveals a defective condition going back to childhood. As early as 1939, he was described as a middle grade moron with cerebral Trauma. This trauma caused a progressive degeneration of his mental condition to an extent that his mental age never exceeded nine years, nine months. As a result, his life over a twelve year period has been characterized by childishness and irresponsibility.

Further complicating the issue is the fact that the court appointed psychiatrist in this case himself was latter committed to a mental institution because of a progressive degenerative condition. The probability that he was suffering from this condition at the time fo his examination of Elliott is sufficiently great that it precludes a determination that Elliolt received a competent phychiatric examination. Under such circumstances, it seems entirely possible that Elliott's mental condition was not fully appreciated by the court, and at the very least, the Board is of the opinion that the applicant's illness presents a mitigating factor which must be considered by it upon this application.

The gravity of the problems presented by this case were enough to evoke a vigorous dissent by three judge of the United States Court of Appeals when Elliott's petition for habeas corpus was denied by that Court. The position of these three judges concerning Elliott's condition reflects in large degree the feeling of the Board. Furthermore, the Supreme Court of Pennsylvania, during oral argument of this case before it, indicated that the case was a proper one for executive clemency.

The degree of criminal responsibility as between the moron and the mentally alert is a matter of grave concern in the execution of our criminal law; certainly the present case is a clear example of where that concern should be translated into positive action on behalf of clemency. The Board is not unmindful of the fact that the person who is dead was a police officer. It is unfortunate that a man dedicated to the preservation of law and order should pay with his life in serving that end. But in weighing all the aspects of this case—Elliott's mental condition, the lack of an adequate examination, the fact that his accomplice received a life sentence—the Board feels constrained to relieve Elliott from the burden of the death sentence.

The Commonwealth should not be placed in the position of sentencing a man to death where such conditions as these exist. It, therefore, recommends to your Excellency that for the reasons set forth above, the sentence of the applicant herein should be commuted from death to life imprisonment.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN—Dissents,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Dominic Fera, 3243-C, No 6678, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Dominic Fera, convicted of rape, etc., in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 9, 1935 be commuted from 15 years to 4 years, 6 months, expiring on March 9, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 9, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Louis Franks, 2945-B, No 6088, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Louis Franks, convicted of murder, first degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 13, 1932 be commuted from life to 22 years, 10 months, expiring on March 13, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George R. Frick, No. A-2911, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that George R. Frick, convicted of Involuntary manslaughter in the Court of Oyer and Terminer of Allegheny County, on December 11, 1952 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty-seven years of age. He has no prior criminal record. The facts briefly are that the applicant, and his three accomplices, who had been drinking, teased the victim about his ability to jump off a high bridge into a river near Pittsburgh. As a result of the teasing, victim agreed to jump off the bridge, which he did, and subsequently drowned. The applicant was arrested and charged with involuntary manslaughter to which he plead nolo contendere and was thereupon sentenced to pay a fine of Two Hundred Dollars and placed on probation for one year.

At the time of the happening of this offense the applicant was a student and has since graduated from Princeton University.

The Board of Parole indicates this applicant bears a good reputation in Massachusetts where he is presently residing. He is married and has one son.

Both the trial judge, the Honorable J. Frank Graff, and the district attorney of Allegheny County, leave the matter of pardon up to the Board.

The Board is of the opinion that this unfortunate tragedy resulted in a negative act by the applicant rather than in a positive act such as is usually found in involuntary manslaughter cases. The Board is further of the opinion that it would be difficult to see how the applicant could have been convicted of involuntary manslaughter had he stood trial, and they are further supported in that decision by reason of the fact that this applicant was once tried and the jury was discharged because they could not agree upon a verdict. In order to spare this applicant and his family from further publicity the plea of nolo contendere was entered. In view of all the facts and in order that this conviction should not prevent this applicant from further advancement, we recommend that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Leonard Galante, 4635-D, No. 5437, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Leonard Galante, convicted of murder in the second degree in the Court of Oyer and Terminer and Quarter Sessions of Montgomery County on October 1, 1937, computed from September 16, 1937 be commuted from 20 years to 17 years, 6 months, expiring on March 16, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 16, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Andrew Walter Garancosky, E-1974, No. A-2259, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Andrew Walter Garancosky, convicted of Burglary in the Court of Oyer and Terminer and Quarter Sessions of Northumberland County on September 19, 1950, computed from June 12, 1950 be commuted from 6 years to 4 years, 9 months, 10 days, expiring on March 22, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-seven years of age. This was his first major conviction. He was sentenced on a plea of guilty to not less than six nor more than twelve years on charges of burglary. He and two other members of his family participated in this series of burglaries throughout Schuylkill and Northumberland Counties and he was the innocent dupe so far as his father and brother were concerned. One brother received only one to two years, but the father, who was the ring leader, received a fifteen to thirty year sentence.

At the present time this applicant has served nearly five years of his minimum sentence. He also has a detainer which he will have to serve from Schuylkill County so that if he is released and serves his sentence in Schuylkill County he will have served over five years.

The Board of Trustees of the State Penitentiary at Graterford states this applicant has an excellent institutional record.

The trial judge, the Honorable Robert M. Fortney, and district attorney of Northumberland County have no objection to the granting of clemency. Since this applicant

has served nearly five years, we are recommending that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Leamon Harris, 960-D, No. 5936, Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Leamon Harris, convicted of murder in the first degree in the Court of Oyer and Terminer and Quarter Sessions of York County on February 25, 1926 be commuted from life imprisonment to 29 years expiring on February 25, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward Hough, No. 9351, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the death sentance of Edward Hough, who pleaded guilty to Murder Generally, which was adjudged by the Court to be Murder in the First Degree, in the Court of Oyer and Terminer and General Jail Delivery of Philadelphia County on June 11, 1947, be commuted from death to life imprisonment.

Our reasons for making this recommendation are as follows:

This applicant, who is forty years of age, was sentenced to death in 1947 by the Court of Oyer & Terminer of Philadelphia County. The judgment and sentence were affirmed by the Supreme Court of Pennsylvania and execution was fixed by Governor Duff for the week beginning March 29, 1948. Application for commutation of sentence was filed with the Board of Pardons and, after a number of executive respites, on May 26, 1950, commutation was recommended by our predecessor Board of Pardons to Governor Duff. He ordered the recommendation held without action pending the disposition of litigation involving David Almeida who was involved in the same crime as applicant. Governor John S. Fine, during his administration, followed the same policy with reference to the recommendation made by the Board of Pardons holding office under Governor Duff. Applicant had testified against Almeida and for the Commonwealth during Almeida's first trial. It was assumed by the then Governors that if Almeida had to be retried Hough's testimony would be necessary to secure a conviction and that if the commutation were granted Hough would not so testify.

On October 28, 1954, David Almeida, a co-conspirator, at a second trial entered a plea of quilty to murder generally. The court determined the crime to be murder in the first degree and sentenced Almeida to life imprisonment. Prior thereto another co-conspirator, James Smith, had also been sentenced to life imprisonment. Following the disposition of the Almeida case applicant applied for rehearing to the Board of Pardons and since the first meeting of the Board following the request for rehearing was the February Sessions, oral argument and all aspects of the case were presented at that time.

We are advised that the trial judges in this case recommend that clemency be extended to this man to make his sentence the same as that imposed on his accomplices. The district attorney of Philadelphia County has joined in this request and asks that clemency be granted. By reason of this recommendation which is joined in by the district attorney, we feel that substantial justice will be done by commutation of the death sentence thus making applicant's sentence equal to that of his accomplices.

For all of the above reasons we recommend that the sentence of death imposed upon Edward Hough be commuted to life imprisonment.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joel Timothy Johnson, E-2711, No. A-2720, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joel Timothy Johnson, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer of Philadelphia County on December 21, 1951, computed from September 28, 1951 be commuted

from 6 years to 3 years 6 months expiring on March 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age. He had no prior criminal record. He was convicted of robbery, being armed with an offensive weapon and was sentenced to not less than six nor more than twelve years. At the present time this applicant has served approximately three and one-half years of his minimum sentence.

The Board of Trustees of the State Penitentiary at Graterford states this applicant has a very good record and advises that he is physically capable of performing the work in the institution as well as on the outside, if released. The district attorney stated this applicant is a first offender and they are not opposed to clemency. The trial judge, the Honorable Joseph L. Kun, is opposed to the granting of clemency at this time.

Because this applicant has an excellent institutional record and because he is a first offender, we feel that he has been sufficiently punished. We, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles King, 4974-C, No. 7676, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the Maximum sentence of Charles King, convicted of burglary and larceny, in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on January 29, 1943, computed from December 19, 1942 be commuted from 20 years to 12 years 3 months expiring on March 19, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 19, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Preston Lowe, 5507-D, No. 6583, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Preston Lowe, convicted of statutory rape; attempt to commit statutory rape; commit statutory rape; statutory rape; in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on March 21, 1940, computed from June 29, 1939 be commuted from 35 years to 15 years 9 months expiring on March 29, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 29, 1989.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John McCann, No. 9946, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that John McCann, convicted of burglary, larceny, receiving stolen goods, in the Court of Quarter Sessions of Montgomery County, on June 15, 1922 be pardoned.

This applicant is fifty-four years of age. This offense for which he seeks pardon occured over thirty-two years ago. The offense was that the applicant impersonated a Federal Agent and confiscated ten cases of whiskey which he had previously sold to his victim. Since this offense nearly thirty-three years ago, the applicant has been in no further difficulty. He is employed as manager of a beverage concern, which holds Pennsylvania Liquor Control Board License and he is of the opinion that this will affect him in his dealings with his suppliers, as well as with the Pennsylvania Liquor Control Board.

The trial judge is deceased and the present judge has no objection to a pardon geing granted if the applicant

is worthy. The district attorney of Montgomery County is opposed.

The applicant has three children and is living harmoniously with his wife. Since this was his only conviction in nearly thirty-three years, we feel that he has been sufficiently punished for this conviction and we, therefore, recommend that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Francis McGowan, 6762-C, No. 4787, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Francis McGowan, convicted of assault being armed to rob, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 5, 1937 be commuted from 20 years to 18 years 2 months expiring on March 5, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 5, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James McMullin, 8330-D, No. A-2876, February Sesion, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James McMullin, convicted of robbery, in the Court of Quarter Sessions of Philadelphia County on August 12, 1946, computed from July 16, 1946 be commuted from 10 years to 8 years 8 months expiring on March 16, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 16, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry Merrick, 78-C, No. 9175, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harry Merrick, convicted of burglary, larceny, receiving stolen goods and prison breach, in the Court of Oyer and Terminer and Quarter Sessions of Montgomery County on August 2, 1946, computed from July 26, 1946, be commuted from 10 years to 8 years 7 months expiring on February 26, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 26, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Arthur Mooney, B-3742, No. A-2907, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Arthur Mooney, convicted of rape, in the Court of Oyer and Terminer of Allegheny County on June 19, 1933, computed from July 6, 1933, be commuted from 5 years to 1 year 8 months 22 days, expiring on March 28, 1955; and further recommend that the maximum sentence of Arthur Mooney, convicted of robbery, receiving stolen goods in the Court of Oyer and Terminer of Allegheny County on June 19, 1933, computed from July 6, 1933, be commuted from 20 years to 1 year 8 months 22 day, expiring on March 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age and this is his first major conviction. He was convicted on two charges of robbery and rape and sentenced to a total of not less than twenty-five nor more than fifty years. The offenses were committed in Frick Park where the applicant would come upon couples and would hold them up, and would then rape the girl. These offenses occurred in 1933 so that at the present time this applicant has served nearly twenty-two years of his minimum sentence.

The Board of Trustees of Western State Penitentiary advise this applicant has an excellent institutional record. He has an arrested case of tuberculosis and at the present time has now spent nearly one-half his life in the Western State Penitentiary for this first offense.

The Board is of the opinion that this applicant has been sufficiently punished and that he has served a long period of time in the institution.

The trial judge is deceased and the present judge has no objection to his release on parole. The district attorney of Allegheny County has no objection to clemency being granted. If released, this applicant will go to live in West Virginia.

The Board recommends commutation at this time because the applicant has served such a long period of time and also because he is a first offender, and the authorities in Allegheny County have no objection, or opposition, to his release. Since this applicant has served all but three years of his minimum sentence, we recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN, DISSENTS
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Louis Perri, 5533-D, No. 6489, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Louis Perri, convicted of assault and battery, aggravated assault and battery with intent to ravish, attempted rape, rape, etc., in the Court of Oyer and Terminer and Quarter Session of Philadelphia County on April 26, 1940, computed from April 10, 1940, be commuted from 10 years to 4 years 11 months expiring on March 10, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 10, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George Perrone, No. A-2892, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that George Perrone, convicted of conspiracy to cheat and defraud, in the Court of Quarter Session of Philadelphia County, on July 3, 1936, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-five years of age. He had no prior criminal record. In 1936 he plead guilty to conspiracy to cheat and defraud and as a result of this offense was sentenced to one year's imprisonment. He was released by the trail judge, the Honorable Joseph Kun, after having served approximately three months of this sentence. From 1936 until now he has been in no further difficulty.

At the time of this applicant's conviction the Criminal Code of 1860 was in effect and by the terms of that Act the service of the sentence acted as a legislative pardon and the stigma was removed. However, subsequent to the repeal of this Act by the Criminal Code of 1939 and the removal of legislative pardons and the passage of the McCarran Act a legislative pardon such as we granted to this applicant is of no force and effect and this applicant is now subject to deportation to Italy from whence he came as a small boy.

He is married and holds a responsible job in Philadelphia and bears an excellent reputation in his community. His employer likewise gives him good reference. In order for this man to apply for citizenship he must have a pardon, as well as to escape deportation. This would be

cruel and unusual punishment to work on this man, who is married to a native born American wife and is such harsh treatment that the Board feels some consideration should be given to him.

The trial judge, the Honorable Joseph Kun, and the district attorney of Philadelphia County are not opposed to the granting of clemency. Because this applicant bears an excellent reputation in his community and because the authorities are not opposed, we recommend that a full gubernatorial pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Clifford P. Redden, D-9350, No. A-2881, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Clifford P. Redden, convicted of robbery, armed with an offensive weapon in the Court of Quarter Session of Delaware County on January 8, 1947, computed from December 24, 1946, be commuted from 50 years to 8 years 3 months, expiring on March 24, 1955; and further recommend that the maximum sentence, each concurrent with the other and also concurrent with the original sentence, be commuted from 20 years to 8 years 3 months, expiring on March 24, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-four years of age. This was his first major conviction. He and two accomplices committed a series of armed robberies and he was sentenced following a plea of guilty to a term not less than fifty nor more than one hundred years. Both of his accomplices, who plead guilty with him, received like sentences.

At the present time this applicant has served eight years of his minimum sentence and he has a very good institutional record.

The trial judge is deceased and the present judge has left the matter of commutation up to the Board. The district attorney of Delaware County is not apposed to the granting of clemency.

It should be pointed out that one of the accomplices had his sentence commuted at the June 1954 Session of the Board of Pardons.

Since this applicant has served over eight years of his unconscionable minimum sentence, we feel that he has been sufficiently punished as a first offender. We, therefore, recommend that his minimum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Bruno Rizzo, 8342-C, No. 2800, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Bruno Rizzo, convicted of murder in the first degree, in the Court of Oyer and Terminer of Elk County on April 7, 1920, be commuted from life to 34 years 11 months expiring March 7, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Clarence Robinson, 9801-C, No. 5408, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Clarence Robinson, convicted of robbery, receiving stolen goods, in the Court of Oyer and Terminer of Allegheny County on May 23, 1939, computed from January 18, 1939, be commuted from 20 years to 16 years 2 months expiring on March 18, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 18, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Salvatore Salvaggio, B-1989, No. 2474, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Salvatore Salvaggio, convicted of murder in the first degree, in the Court of Oyer and Terminer of Somerset County on April 17, 1930, be commuted from life imprisonment to 25 years expiring on April 17, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-seven years of age. This was his first conviction for any offense whatsoever. This applicant was of Italian extraction and the victim had berated both the applicant and the Italian race generally. The victim was of such a nature that he had on one occasion knocked down the applicant and on this particular day threatened the applicant, who in turn shot him through the back of the head.

This applicant has served nearly one-half of his life in prison for a crime of passion. He has an excellent institutional record in the Western State Penitentiary and has been employed as a shoemaker in the Penitentiary. If released he intends to establish himself in Johnstown, or with his brother in Cleveland, Ohio. He is in excellent health but if this applicant is to be given an opportunity to rehabilitate himself in society it will have to be by commutation of sentence at some date in the immediate future, or otherwise the applicant will become too old to sustain himself.

Since this applicant is now fifty-seven years of age and has served nearly twenty-five years in prison and since this was a crime of passion, and since he has an excellent record in the Penitentiary, even though the authorities are opposed, we feel that he should be granted clemency and we do so recommend.

Respectfully submitted,

(Sgd) ROY E. FURMAN—Dissents,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Sisto Sanchis, No. A-2912, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Sisto Sanchis, convicted of Murder in the second degree in the Court of Oyer and Terminer of Erie County, on February 24, 1930 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty years of age and is a native of Mexico by birth. However, in 1929 he came to this country and settled in and about Erie. While there he became involved in an affair with the victim, who was larger and more aggressive than he was and who picked a fight with him. As a result of this fight the victim was shot and killed. The applicant was sentenced to a term of not less than eight nor more than sixteen years. He served his minimum sentence and was returned to his native Country of Mexico.

This applicant desires to re-enter the United States and in order to do so under the McCarran Act he is required to have a pardon for the offense before he may be admitted. In view of his request, which is for the purpose of visiting members of his family in this country, we feel that he has not been so guilty of moral turpitude as to be forever excluded from residing or visiting in this country.

Neither the present judge, nor the district attorney of Erie County, is opposed to the granting of a pardon in this case. Under all the circumstances we feel that a pardon should be granted in this case and so recommend to your Excellency.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Raymond Shope, 7563-C, No. 3732, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Raymond Shope, convicted of robbery in the Court of Quarter Sessions of Clinton County on September 26, 1929 be commuted from 20 years to 5 years, 5 months, expiring on February 26, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 7, 1963.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Silvay, 6894-D, No. 8684, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Frank Silvay, convicted of sodomy, etc., in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on November 29, 1945 be commuted from 10 years to 9 years, 4 months, expiring on March 29, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 29, 1955.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Smith, 7564-C, No. 6791, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William Smith, convicted of being armed, etc., in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 26, 1939, computed from May 6, 1939 be commuted from 20 years to 15 years, 10 months, expiring on March 6, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until May 6, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Cornelius Stark, E-865, No. A-2295, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Cornelius Stark, convicted of murder in the second degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on February 4, 1949, computed from January 31, 1949 be commuted from 7 years to 6 years, 2 months expiring on March 31, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-three years of age. He had no prior criminal record.

This applicant, in a fit of passion, rage and pain, choked his wife to death. He plead guilty to murder generally as a result of this offense and was found guilty of murder in the second degree and was sentenced to not less than seven nor more than fourteen years in the Eastern State Penitentiary.

The Board of Trustees of the Eastern State Penitentiary advises this applicant has an excellent institutional record.

The trial judge, the Honorable Eugene Alessandroni, has no comment to make in this case. The district attorney of Philadelphia County is not opposed since this applicant has now served over six years of his minimum sentence and was a first offender, who has an excellent prison record.

We feel that his sentence should be commuted and we so recommend.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harvey Steadman, No. 8169, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Harvey Steadman, convicted of prison breach in the Court of Quarter Sessions of Centre County on November 14, 1951, computed from July 2, 1952 be commuted from 7 years to 2 years, 9 months expiring on April 2, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-three years of age and he was sentenced in Crawford County to a term of not less than seven and one-half nor more than 15 years on charges of statutory rape. He was sentenced in the Western State Penitentiary and later was transferred to State Penitentiary at Rockview. While there he suffered a blackout and walked away from the institution. He was later apprehended. He was then given a sentence of not less than seven nor more than fourteen years for prison breach. While in the State Penitentiary at Rockview he presented a habeas corpus as to the Crawford County sentence, which was granted on the ground that the applicant was denied his fundamental rights guaranteed to him by the Constitution of United States and of Pennsylvania. This habeas corpus was granted in June 1954 so that at that time the applicant had been continuously imprisoned for over eleven years.

Since this entire confinement for eleven years has resulted in the first improper conviction we feel that he has been very severely dealt with. Also it is reported to the Board of Pardons that while in the Crawford County Prison on the habeas corpus proceedings and subsequent that he stopped a prison break and has done very valuable work for the County of Crawford. There are letters from the Sheriff of Crawford County to substantiate this position.

The district attorney of Centre County, where he was sentenced on his escape, however, at the present time remains opposed. Since this man has now served nearly one-half of his minimum sentence for prison breach which could not possibly have been imposed upon him if he had not been improperly convicted in the first instance, we feel that he has been sufficiently punished and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Stephens, 6860, No. 2882, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Charles Stephens, convicted of assault and battery in the Court of Quarter Sessions of Northampton County on September 15, 1954, computed from September 14, 1954 be commuted from 9 months to 6 months, 10 days expiring on March 24, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-four years of age. This was his first conviction. He was charged with rape, sodomy and assault and battery on a woman with whom he had been drinking. He was found not guilty of the rape and the sodomy but was found guilty of the assault and battery, although all the facts in the case pointed conclusively to a "not guilty" verdict. The victim was in the predicament that she was in by reason of her own conduct, and it has been shown that she was considerably older than the applicant.

The applicant has an excellent record in the Northampton County Prison and both the trial judge, the Honorable Carleton T. Woodring, and the district attorney leaves the matter up to the Board of Pardons.

Since this applicant has served two-thirds of his minimum sentence, we feel that he has been sufficiently punished and we recommend his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN—Dissents,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Henry C. Tromatter, 5027-A, No. 785, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the sentences of imprisonment imposed upon Henry C. Tromatter, convicted of burglary in the Courts of Oyer and Terminer and Quarter Sessions of Chester County on August 31, 1926, computed from August 2, 1926, be commuted on Bill No. 3, August Session, 1926 from a maximum term of 10 years to a new maximum term of 8 years, 7 months, expiring on March 2, 1955; on Bill No. 4, August Sessions, 1926 from a maximum term of 10 years to a new maximum term of 1 day, expiring on March 3, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until August 2, 1966.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.

(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ralph Viggiano, No. A-2884, February, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Ralph Viggiano, convicted of lottery in the Court of Quarter Sessions of Allegheny County, on February 16, 1951 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-seven years of age. This was his first conviction for any offense whatsoever. He plead guilty to the writing of numbers and keeping of punch boards. He is married and has three children.

This applicant was a trusted employee in the Westinghouse Electric Corporation but at the present time has been laid off and is presently employed as a carpenter's helper. This offense occurred over four years ago and this was the only blot on his name.

The Board of Parole has reported that this applicant has an excellent reputation.

The trial judge, the Honorable William F. Dannehower, states he has no objection. The district attorney of Allegheny County has stated he is not opposed and leaves the matter of pardon up to the Board.

Since this was applicant's first conviction and since he has a family and was a trusted employee of Westinghouse and has shown he will not again offend against society, we recommend that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN—Dissents,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Henry W. Weaver, D-7470, No. A-40, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Henry W. Weaver, convicted of murder, in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on October 7, 1943 be commuted from life imprisonment to 11 years, 6 months expiring on April 7, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-nine years of age. He had no prior criminal record. He was convicted upon a jury trial of murder in the first degree although it is now viewed in retrospect as something less than murder in the first degree. Nevertheless this applicant has served over eleven years, four months.

The trustees of the Eastern State Penitentiary advise that this applicant has a good institutional record.

The trial judge is no longer on the bench and the present judge recommends that this matter be considered favorably by the Board of Pardons. The district attorney of Delaware County, who has made a thorough investigation of this case, requests that commutation be granted.

In view of the fact that this could have been less than first degree murder, and the applicant has now served more than the minimum term for second degree murder, we are recommending that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN—Dissents,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Henry Williams, 5763-D, No. 8034, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Henry Williams, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 7, 1939, computed from February 27, 1939 be commuted from 20 years to 16 years expiring on February 27, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 27, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Williams, 964-B, No. 5637, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Williams, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 9, 1940, computed from January 4, 1940 be commuted from 20 years to 15 years, 2 months expiring on March 4, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 4, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Julius Williams, 3651-A, No. 2880, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Julius Williams, convicted of burglary and receiving stolen goods in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 22, 1942, computed from April 17, 1942 be commuted from 20 years to 12 years, 11 months expiring on March 17, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 17, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George Young, D-8658, No. A-2224, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of George Young, convicted of murder in the second degree in the Court of Quarter Sessions of Philadelphia County on April 21, 1950 be commuted from 6 years to 4 years, 11 months expiring March 21, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age. He had no prior conviction. He and the victim got into a fight over a jacket and during the fight this applicant picked up an ice pick and stabbed the victim, who subsequently died. He was convicted by a jury of murder in the second degree and was sentenced by the trial judge to not less than six nor more than twelve years, which is the equivalent sentence of voluntary manslaughter.

At the present time this applicant has served approximately five years of this minimum sentence and has an excellent record in the institution.

The trial judge, the Honorable Francis Shunk Brown, is opposed to the granting of clemency and has written the Board stating that nothing has been presented to him which should cause any modification of this sentence. The district attorney of Philadelphia County, however, is not opposed to the granting of clemency. Since this grew out of a fight and the applicant is a virtually first offender with an excellent prison record, the Board feels that he has been sufficiently punished and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN—Dissents,
Lieutenant Governor.
(Sgd) JAME A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Brooks, 5696-C, No. 6498, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the sentence of imprisonment imposed upon James Brooks, convicted of assault, being armed to rob in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on June 7, 1933, be commuted on Bill No. 46 from a maxi-

mum term of 20 years to a new maximum term of 1 year, 10 months, expiring on April 7, 1955, and on Bill No. 47 from maximum term of 10 years to a new maximum term of 1 day, expiring on April 8, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relived of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 7, 1983.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAME A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Patrick Devlin, No. A-2963, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Patrick Devlin, convicted of larceny and receiving stolen goods in the Court of Quarter Sessions of Lancaster County, on December 7, 1918 and on August 20, 1921 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-four years of age. He committed two offenses in Pennsylvania while a juvenile. The offenses occurred in 1918 and 1921, the last offense being over thirty-three years ago. The offenses were for juvenile larceny and receiving stolen goods. Since his release he has had an excellent reputation and for the past fifteen years has been a race track parker in Florida and New Jersey. He is well thought of by the managers of the Hialiah and the Garden State Race Tracks. He has an excellent reputation, is married and has kept out of trouble.

However, both the State of Florida and the State of New Jersey have passed laws which prohibit anyone who has a felony record from working at a race track, although strictly speaking his offenses were not considered felony records in Pennsylvania. Other states do, however, consider them as such. For this reason the applicant was denied reemployment at Hialeah this winter.

The Board feels that to deprive a man of his livelihood for an offense which occurred over thirty-three years ago offends the sense of justice of this Board. We, therefore, recommend that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAME A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Anthony Falco, 4617-D, No. 6072, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Anthony Falco, convicted of robbery, armed with an offensive weapon in the Court of Quarter Sessions of Philadelphia County on June 5, 1940, computed from May 17, 1940 be commuted from 20 years to 14 years, 11 months expiring on April 17, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 6, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Milton Ferrel, 3622-D, No. A-2930, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Milton Ferrell, convicted of burglary, receiving stolen goods and unlawful use of drugs in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 4, 1946, computed from March 30, 1946 be commuted from 15 years to 9 years, expiring on March 30, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 30, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Edward Geiger, D-9463, No. A-2219, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Edward Geiger, convicted of murder in the first degree in the Court of Oyer and Terminer of Dauphin County on February 10, 1947 be commuted from life to 8 years, 10 months, 18 days, expiring on April 10, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-seven years of age and he has no prior criminal record. He was convicted of murder in the first degree and sentenced to life imprisonment. At the present time this applicant is suffering from epilepsy and is confined to a wheel chair. He desires to enter a sanitorium where tests and treatment will be available to him that are not available to him now.

The trial judge, the Honorable Robert E. Woodside, is not opposed to the granting of clemency if physical condition is as stated. The district attorney of Dauphin County leaves the matter up to the Board because of the health of the applicant. However, if his health was otherwise than stated, the district attorney would be opposed.

This applicant has only served eight years, two months of life imprisonment. The Board herein waives one of its major rules in that an applicant for commutation of life sentence must serve a substantial portion of the maximum of a second degree sentence before recommending that the sentence be commuted. It is being recommended herein but only on condition that the applicant go for treatment to a veterans' hospital, and if released from the veterans' hospital he be returned to the Eastern State Penitentiary for further disposition by the Board.

We recommend commutation on condition that he be admitted to the Veterans' Administration Hospital at Coatesville and not to be released from that insitution until after notification to the Board of Pardons of their intention to release the applicant and the Board has opportunity to act.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert G. Hannan, No. A-2942, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Robert G. Hannan, convicted of burglary in the Court of Oyer and Terminer of Cambria County, on January 28, 1933 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is sixty-two years of age. He has no prior criminal record. He was convicted of the crime of burglary, the burglary consisting of certain ballots that had been placed in a position of safe-keeping following an election in the City of Johnstown. This offense occurred in or about November 11, 1931. Following his conviction he was sentenced to a term of not less than sixty days in the County Jail, which he served. Prior to, and subsequent to this offense, which occurred more than twenty-three years ago, the applicant had an excellent reputation in and about the City of Johnstown and the County of Cambria.

At the present time this applicant is a member of the City Council of the City of Johnstown and is seeking to be elected in this present election to the post which he is now filling by appointment. It is interesting to note that this old offense is not held against this applicant by persons in the community, and those who were questioned concerning his reputation stated without qualification favorably about him at this time.

The trial judge, the Honorable Ivan J. McKenrick, has stated that he will leave the matter of pardon up to the Board, and the district atorney of Cambria Couny has written the Board of Pardons and stated: "In view of the fact that this alleged occurrence took place in Cambria County upwards of twenty years ago, I sincerely believe that your Honorable Board should use its sound discretion in passing on the merits of the Application."

Since this applicant has had but this single offense against his record and is considered a very substantial citizen in the community in which he lives, and is seeking a political office, we feel that this old offense should not be held against him. Therefore, since the authorities of Cambria County are not opposed to the granting of executive clemency, we recommend that a full and complete pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William J. Harrison, 7598-C, No. 6819, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William J. Harrison, convicted of embezzlement by employee, fraudulently making written instrument in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 24, 1941 be commuted from 15 years to 13 years, 7 months expiring on April 24, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 24, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Wesley Jackson, D-9880, No. A-2136, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Wesley Jackson, convicted of robbery, armed with an affensive weapon and robbery in the Court of Quarter Sessions of Philadelphia County on September 8, 1947, computed from August 27, 1947 be commuted from 10 years to 7 years, 8 months expiring on April 27, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age. This was his first major conviction. He was convicted of the crime of robbery, armed with an offensive weapon, and the facts were that this applicant, and an accomplice, committed two armed robbery hold-ups. The amount of the loot was approximately Thirty Dollars. This applicant had no weapon in his possession, but his accomplice, who received a longer sentence, did have a knife in his possession.

At the present time this applicant has served seven and one-half years of his minimum sentence. If released he intends to live with his mother in Philadelphia and will be employed by a local funeral director, who has promised him an opportunity to rehabilitate himself.

The trial judge is deceased and the present judge has no comment to make. The district attorney of Philadelphia County is not opposed.

In view of the fact that this applicant has served over three-fourths of his minimum sentence and since this was his first major conviction, we feel that he has been sufficiently punished and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Roger H. Jones, D-9385, No. A-2247, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Roger R. Jones, convicted of robbery, armed with an offensive weapon in the Court of Quarter Sessions of Philadelphia County on January 22, 1947, computed from November 30, 1946 be commuted from 10 years to 8 years, 5 months expiring on April 30, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age. This was his first conviction for any offense. He was convicted of the crime of robbery, armed with an offensive weapon, which offense consisted of the hold-up of three taxicab drivers. The total loot amounted to approximately Seventy-Four Dollars.

At the present time this applicant has served over eight years of his minimum sentence. He is a sick man and has an excellent reputation in the State Penitentiary at Graterford, where he is presently confined. He has an excellent record in that institution.

The trial judge is deceased and the present judge has no comment to make. The district attorney of Philadelphia County is not opposed.

Under all the circumstances above outlined we feel the applicant has been sufficiently punished and we, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Paul Lamlein, 9542A, No. A-2952, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Paul Lamlein, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on October 1, 1938, computed from

September 8, 1938 be commuted from 20 years to 16 years, 7 months expiring on April 8, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 8, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank J. McKinney, 4971-C, No. 8545, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the sentence of imprisonment imposed upon Frank J. McKinney, convicted of felonious entry, larceny, receiving stolen goods in the Court of Oyer and Terminer and Quarter Sessions of Montgomery County on March 1, 1929, be commuted on Bill No. 225-16 from a maximum term of 10 years to a new maximum term of 8 years, 5 months expiring on April 1, 1955 ("full time" served on Bill No. 225-4; maximum served on Bill No. 225-5, maximum commuted on Bill No. 225-10).

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 1, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Jacob Mezey, No. A-2959, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Jacob Mezey, convicted of setting up and maintaining an illegal lottery; engaging in poolselling and bookmaking and conspiracy, in the Court of Quarter Sessions of Philadelphia County, one June 28, 1932, on November 18, 1949 and on September 25, 1950, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-three years of age. He is applying for a pardon on three offenses which occurred between the years of 1932 and 1950. They were all the same character and nature, being charges of setting up and maintaining illegal lottery, pool selling and bookmaking.

Since the last offense in 1950 the applicant has decided to change his mood of living and has become employed with various legitimate industries and is now associated in a real estate company. He is making a success in this business but in order for him to become wholly successful in it, it is necessary for him to have a real estate license issued by the Commonwealth of Pennsylvania. In view of his present conviction he is not eligible for this license.

Because he has turned from his criminal activity and has turned to a legitimate activity for more than four and one-half years, we feel that he should not be further burdened with his prior conduct. He is married and has two children and he desires a pardon in order to clear his name for their benefit. He lives in a fine residential section surrounding Philadelphia and this offense would carry a certain stigma with it.

In view of his present financial and social obligations we feel that he has been completely rehabilitated and we, therefore, rcommend that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ronald Montgomery, 2618-A, No. 4738, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Ronald Montgomery, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on June 24, 1938, computed from June 16, 1938, be commuted from 20 years to 16 years, 10 months expiring on April 16, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 16, 1953.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Mullaney, 78, No. A-476, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Mullaney, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 7, 1948, computed from December 3, 1947, be commuted from 10 years to 7 years, 4 months, expiring on April 3, 1955.

Our reasons for making this recommendation are as follows:

The applicant is one of many parolees whose release from parole by commutation of the maximum sentence has been recommended to the Board of Pardons by the Board of Parole.

The Board of Parole has recommended that this applicant, because of his excellent record in the armed forces of the United States. The applicant has served in the Korean conflict and has received an honorable discharge from the armed services. By reason of this service the applicant assisted in turning back the Communist aggressor.

The Board of Pardons is of the opinion that this applicant's military service, together with the good record on parole, and the recommendation of the Board of Parole that, it is our recommendation to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles L. Plowman, No. A-2932, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Charles L. Plowman, convicted of burglary in the Court of Oyer and Terminer of Allegheny County on February 7, 1947, computed from December 14, 1946 be commuted from 10 years to 8 years, 4 months expiring on April 14, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age and this was his first offense. He plead guilty to the offense of burglary and was sentenced to a term of not less than one nor more than ten years. After having served approximately ten years for this offense he was released on parole and has since been under supervision of the Board of Parole. The report from the Board of Parole indicates that this applicant has been working steadily and has married and is rearing a family. He has made a favorable adjustment and is considered to be a stable and well-adjusted family man.

In view of this applicant's favorable adjustment the Board of Parole has stated they have no objection to the commutation of his maximum sentence.

The trial judge is deceased and the present judge has no recommendation to make in this matter. The district attorney of Allegheny County stated to the Board of Parole that he feels this applicant merits consideration in the commutation of maximum sentence and his office, therefore, is not opposed.

In view of applicant's wholesome re-adjustment to society we feel that further parole supervision is unnecessary and we, therefore, recommend that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of David King Rainey, No. A-2958, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that David King Rainey, convicted of assault and battery, aggravated assault and battery in the Court of Quarter Sessions of Philadelphia County on February 5, 1942; and convicted of larceny of automobile and operating motor vehicle without consent of owner, in the Court of Quarter Sessions of Philadelphia on September 19, 1949, he pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty years of age. But for these offenses he has no prior record. They occurred in 1942 and again in 1949. The last offense occurred when the applicant was under the influence of intoxicating liquor and took an automobile without the permission of the

owner. He was involved in an accident and he was sentenced to a year in prison. He served this year. Again he was charged with assault and battery and was given ten days in the County Prison.

The Board of Parole has made a thorough investigation of this applicant and approves the application. He is referred to as a good family man who has demonstrated stability in his employment. At the present time the applicant is employed by Joseph Ellsie, as a general helper in a grocery store. He is interested in learning the trade of meat cutter and has been getting a lot of experience in this line.

The applicant is doing everything to raise his children in an honorable and law-abiding manner. In view of the fact that this applicant has completely rehabilitated himself and has found the error of his ways, we recommend that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Christian Rastetter, 3818-C, No. 8421, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Christian Rastetter, convicted of burglary, receiving stolen goods and robbery in the Court of Oyer and Terminer of Allegheny County on February 9, 1944, computed from November 27, 1943 be commuted from 15 years to 11 years, 4 months, expiring on March 27, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 27, 1958.

For the reason that this applicant has served a long time on parole, and the further reason that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Thomas Ryan, Sr., E-2309, No. A-2117, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John Thomas Ryan, convicted of burglary and arson in the Court of Oyer and Terminer of Montgomery County on April 27, 1951, computed from March 1, 1951 be commuted from 5 years to 4 years, 2 months, expiring on May 1, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-eight years of age. He had no prior record. He plead guilty to the crime of burglary and arson and was sentenced to a term of not less than five nor more than ten years. He has now served over four years of his minimum sentence and the Warden of the Montgomery County Prison states that he has a very good conduct record.

The trial judge, the Honorable Harold G. Knight, states he has no objection to his release on parole.

This offense was committed by the applicant in a fit of rage and sense of injustice over a financial reverse which he blamed on the owners of the destroyed building. Since his imprisonment he has seen the error of his ways.

The Board feels that this applicant has beein sufficiently punished and that he will not again offend against society and for that reason we are recommending that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN, Dissents,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harvey Shapiro, No. A-2948, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Harvey Shapiro, convicted of unlawful possession and use of drugs in the Court of Quarter Sessions of Philadelphia County, on November 14, 1951 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty-five years of age and he has no prior criminal record. He was charged with the possession and use of drugs, nearly four years ago. At this time the applicant has completely cured himself of his disease and is now married and has two children. He lives in Bucks County, Pennsylvania.

This applicant could be eligible for advancement in society but with this offense hanging over him he is not permitted to take civil service examination where he is required to state prior criminal record. It has been established that this applicant bears a good reputation in the community in which he lives and he has not been involved in any misconduct with the exception of this offense.

The trial judge, the Honorable Gerald Flood, has no

comment to make with regard to the granting of executive clemency. However, the district attorney of Philadelphia County remains opposed at this time. In view of the fact that this applicant has completely rehabilitated himself, is married, has a family and is being deterred in his advancement by this offense, we recommend that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Alice Shisler, 1669-D, No. 6246, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Alice Shisler, convicted of murder, in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on March 27, 1935 be commuted from life imprisonment to 20 years expiring on March 27, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry Sill, 2570-C, No. 4853, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harry Sill, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer of Allegheny County on September 20, 1939, computed from September 20, 1939 be commuted from 20 years to 15 years 7 months expiring on April 20, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 20, 1959.

For the reason that his applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Souter, C-9252, No. 5571, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John Souter, convicted of murder in the first degree in the Court of Oyer and Terminer of Philadelphia County on October 20, 1933 be commuted from life to 21 years, 6 months expiring on April 20, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-four years of age and this was his first conviction for any offense whatever. He was charged with the murder of his wife and he plead guilty to murder generally and the court fixed the degree at murder in the first degree.

The trial judge, the Honorable Horace Stern, who is now Chief Justice of the Supreme Court of Pennsylvania, did not advise the Board of his position, although in prior years he has left the matter entirely up to the Board of Pardons. The district attorney of Philadelphia County leaves the matter of clemency up to the Board.

Since this was a killing involved in passion and since this applicant has served nearly twenty-one and one-half years of his sentence with an excellent record, we feel that his sentence should be commuted and we, therefore, recommend to your Excellency.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert Strain, E-5318, No. A-2951, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Robert Strain, convicted of receiving stolen goods in the Court of Quarter Sessions of Philadelphia County on February 20, 1952, computed from December 24, 1954 be commuted from 6 months to 4 months expiring on April 24, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-five years of age. He does have a bad prior criminal record. He has been continuously confined since 1952 so that at the present time he has served over three years, three months in prison. His minimum sentence will expire in June 1955.

This applicant is asking for clemency because he feels that he has now learned if he does not re-adjust to society he will have a long time to serve until the expiration of the maximum sentence. He is pentinent about his wrong-doing and it is the opinion of the Board that he will not again become involved.

The Warden of the Philadelphia County Prison has stated that the applicant has a good conduct record and the trial judge, the Honorable Francis Shunk Brown, leaves the matter of clemency up to the Board. The district attorney of Philadelphia County is not opposed to the granting of clemency.

In view of the fact that he has served all but three months of his minimum sentence we are recommending that clemency be extended and his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Widemire, 2580-D, No. 8342, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommended that the maximum sentence of Charles Widemire, convicted of burglary, burglary and larceny and burglary in the Court of Quarter Sessions of Indiana County on September 18, 1944, computed from July 24, 1944 be commuted from 12 years to 10 years, 9 months, expiring on April 24, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 24, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Yaworski, No. A-2962, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Joseph Yaworski, convicted of sodomy and obscene exhibition in the Court of Quarter Sessions of Philadelphia County, on July 28, 1943 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-nine years of age. He was found guilty of the offense of sodomy by the Court of Quarter Sessions of Philadelphia County on the twenty-eighth day of July 1943, at No. 633 December Term 1942. He was fined one hundred dollars and costs.

The crime comprised of the operation of a stag smoker at which obscene moving pictures were displayed and other indecent occurrences were part of the program. The applicant was placed on probation.

Since his arrest and conviction in 1943 the applicant has conducted himself as a law-abiding citizen and he has never been involved in any offenses either prior to this arrest or subsequent thereto. He is desirous of taking a civil service examination for a position with the County of Philadelphia and believes that his eligibility would be in danger by reason of this offense.

The trial judge is deceased and the present judge has no comment. The district attorney of Philadelphia County states: "Our investigation has been completed and we desire to notify the Board that we do not oppose this application for a pardon."

The Board of Parole, upon their investigation, states that the reputation of the applicant, is very good and that he has conducted himself in an exemplary manner during the past twelve years. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William D. O'Connor, No. A-2927, March Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that William D. O'Connor, convicted of burglary and receiving stolen goods in the Court of Oyer and Terminer of Butler County on April 10, 1953; and convicted of larceny in the Court of Quarter Sessions of Mercer County on May 11, 1953, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty-six years of age. He had no prior criminal record. He was sentenced for the crime of larceny in Mercer County and sentenced for the crimes of burglary and receiving stolen goods in Butler County. He was sentenced to 6 months in the Allegheny County Workhouse and released in July, 1953.

Honorable Herman M. Rodgers, of Mercer County Court, recommends that the applicant be granted a pardon. Likewise, Honorable Leo H. McKay, of Mercer County, recommends that a pardon be granted. Honorable Clyde S. Shumaker, of Butler County, relies upon the action of the Board. The district attorney of Butler County has no objection to the granting of clemency, and the Board of Parole reports that the district attorney of Mercer County has made no comment.

At the time this applicant was committing these offenses he was a teacher and basket ball coach at the Harrisville High School of Harrisville, Penna. His accomplice was a student at the State Teachers College at Slippery Rock, Penna.

Following his release from the Allegheny County Workhouse, the applicant obtained employment in the North Boroughs Y. M. C. A., Bellevue, Pa., where he is employed as a youth director. The applicant, because of these offenses, is in danger of losing his professional teaching certificate as issued by the Department of Education. The present employment of the applicant as a youth director of the Y. M. C. A. indicates that this organization has the feeling that his misdeeds have been atoned. The very fact that the youth organization has employed him in such a responsible position indicates the confidence that they have in his rehabilitation. The Secretary of the North Boroughs Y. M. C. A. has expressed himself forcibly along this line.

The Department of Education is holding up the matter of the revoking of the applicant's teaching certificate until the Board of Pardons disposes of the application. If the pardon is not granted by the Commonwealth there is every likelihood that the Board of Education will revoke his certificate.

The Board feels that the circumstances of these offenses committed by the applicant are most unusual in view of the background of this young man and further that the community has so readily restored him to their confidence, and a youth organization has entrusted to him the supervision of youth, persuades the Board to believe that a pardon under the circumstances will make this applicant realize that good conduct, good social relationship and good habits are virtues which are esteemed and to be followed diligently. The Board, therefore, recommends that to save this young man from losing his professional standing a pardon should be granted, and so recommends.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Francis Baio, 7010-D, No. 8303, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Francis Baio, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on November 15, 1937, computed from October 27, 1937 be commuted from 50 years to 17 years, 6 months, expiring on April 27, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 27, 1987.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Barbour, 3951-A, No. 4063, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Frank Barbour, convicted of forgery in the Court of Oyer and Terminer and Quarter Sessions of Dauphin County on July 15, 1932, computed from July 15, 1932 be commuted from 24 years to 22 years, 10 months expiring on May 15, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after receiving his record. But for this action the applicant, because of his sentence, would remain on parole until July 15, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of

Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Emanuel Bruni, No. A-1892, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Emanuel Bruni, convicted of assault and battery with attempt to kill in the Court of Quarter Sessions of Montgomery County on November 16, 1951 be commuted from 4 years to 3 years, 7 months expiring on June 16, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-three years of age. He was sentenced to imprisonment for assault and battery with intent to kill on November 16, 1951 for from two to four years in the Montgomery County Prison. In May 1953 his minimum sentence was commuted and he has been on parole since September 1, 1953.

The Board of Parole reports that this applicant has not violated his parole plan and is regularly employed as a truck driver. The Board of Parole also reports that his tendency in the old days to become intoxicated has been expended and that he is now living a very law-abiding life.

The trial Judge, the Honorable Harold G. Knight, is not in favor of the granting of this commutation at this time. However, the reason that this applicant deserves commutation is that his future employment requires that he be released from parole supervision. This has persuaded the Board that his maximum sentence be commuted. His conduct over the past several years seems to warrant confidence in his future behavior. We, therefore, recommend that his maximum sentence be reduced from four years to three years, seven months, expiring on June 16, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Cellucci, D-7607, No. A-1820, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Cellucci, convicted of robbery and robbery armed with an offensive weapon in the Court of Quarter Sessions of Philadelphia County on February 9, 1944, computed from January 15, 1944 be commuted from 18 years to 11 years, 5 months expiring on June 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age and had no prior criminal record. He was sentenced as of January 15, 1944 for the crime of robbery, armed with an offensive weapon, for from eighteen to forty years in the Eastern State Penitentiary. He was involved in a series of armed robberies in Philadelphia.

The district attorney of Philadelphia stated to the Board that he was not opposed to the granting of commutation of this sentence. The authorities at the Eastern State Penitentiary state that he has a very fine record and gives every indication of adjustment so that upon his return to society there is every likelihood he will not again become involved in any criminal difficulties.

The Board believes that this applicant has demonstrated his desire to realize his responsibilities as a citizen, and the Board and the district attorney's office, join in recommending the commutation of this sentence.

The Board recommends that this minmum sentence be commuted to eleven years, five months, expiring June 14, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles W. Davis, No. A-2988, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Charles W. Davis, convicted of public indecency in the Court of Quarter Sessions of Dauphin County, on May 29, 1930 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is sixty-two years of age. In May of 1930 this applicant was found guilty, fined $50.00, and given a sentence of fourteen days in the Dauphin County Prison for public indecency. He has conducted himself in a satisfactory manner in Pennsylvania and in accordance with the statement of the District Attorney of Dauphin County he is not opposed to granting this application. For the past ten years he has been residing in Pleasantville, New Jersey, and the New Jersey Parole Office states that he has made a very good Community adjustment.

Judge William H. Neely, of the Dauphin County Courts states: "We do not think it would defeat the ends of Justice if a pardon were granted for this offense."

The applicant was involved in a minor offense in the Commonwealth of Massachusetts and State of New Jersey and he is subject to deportation to England under the

McCarren Act. The purpose of this pardon is to enable him to continue as a resident of this Country and make proper application for citizenship.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Luther Davis, 8311-D, No. 8572, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Luther Davis, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 24, 1938, computed from March 15, 1938 be commuted from 20 years to 17 years, 2 months expiring on May 15, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 15, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James DeLucia, 6189-C, No. A-2935, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James DeLucia, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer of Allegheny County on May 7, 1943, computed from February 17, 1942 be commuted from 15 years to 13 years, 3 months expiring on May 17, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 17, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Thomas Donsavage, 9266, No. 1326, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Thomas Donsavage, convicted of Robbery, armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Luzerne County on November 16, 1935, computed from October 30, 1941 be commuted from 20 years to 13 years, 6 months expiring on April 30, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 30, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Casimir Guiseppe Erzegovich, No. A-2974, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Casimir Guiseppe Erzegovich, convicted of larceny in the Court of Quarter Sessions of Dauphin County, on February 24, 1953 be pardoned.

Our reasons for making this recommendation are as follows:

The applicant is thirty-two years of age. He had no prior criminal record He was convicted and sentenced by the Court of Quarter Sessions of Dauphin County on three charges of larceny in January 1953 for from 8 months to 20 months in Dauphin County Prison. It is understood that the victim was fully reimbursed for the loss of property and since this applicant's parole in February 1953 he has conducted himself as a law-abiding member of society.

The purpose of this application is to avoid deportation under the McCarren Act. The District Attorney of Dauphin County is not opposed to this application and Judge William H. Neely, of the Dauphin County Courts, expressed his opinion as follows: "We do not believe it would defeat the ends of Justice, under all the circumstances, if this man were granted the pardon which he requests."

It is understood that if pardon is granted this applicant will avoid deportation and make application for citizenship.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Thomas Martin Ferguson, No 8978. April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Thomas Martin Ferguson, convicted of voluntary manslaughter in the Court of Oyer and Terminer of Delaware County on March 18, 1946 be commuted from 12 years to 9 years, 6 months expiring on June 17, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-seven years of age. According to the record he had a previous record of minor offenses and the offense for which he is seeking commutation is voluntary manslaughter, for which he received a sentence of six to twelve years in December 1945 in Delaware County. His minimum sentence was commuted in October 1948 and he was released on parole in December 1948.

Since his release he has conducted himself in a very satisfactory manner. The report of the Board of Parole indicates that he has been residing in Philadelphia and is employed in that area by the Baldwin Corporation. Investigation reveals that he is held in esteem by his friends and acquaintances. The applicant desires to seek employment without the State as he is an experienced welder and for that reason desires to be released from further parole supervision.

President Henry G. Sweney of Delaware County states: "Since this man has served his sentence in the Penitentiary and has adjusted well during the period which he has been on parole, I see no reason why his maximum sentence should not be commuted."

The District Attorney of Delaware County stated that he was not opposed to the granting of this application.

In view of the applicants readjustment to society we feel that his maximum sentence should be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Peter George Goff, E-3258, No. A-2979, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Peter George Goff, convicted of conspiracy, robbery, carrying concealed deadly weapons in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 22, 1952, computed from April 16, 1952 be commuted from 5 years to 3 years, 2 months expiring on June 16, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age. His prior record consisted of three juvenile offenses and the present sentence was from five to ten years in Philadelphia County for robbery. The prison authorities state that this applicant has an outstanding record in the institution. He occupies a position of trust in the State Penitentiary at Graterford, where the authorities speak highly of the adjustment this applicant has made during his incarceration. They feel that he has proved to their satisfaction that he will become a law-abiding citizen if returned to society.

The district attorney and trial judge, the Honorable Lewis E. Levinthal, were not in favor of clemency.

Since this applicant has served over three years of his minimum sentence with an outstanding institutional record we recommend that his sentence be commuted to three years two months expiring June 16, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Daltha Haliburton, 1603-D, No. 7554, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Daltha Haliburton, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 7, 1939, computed from May 7, 1939 be commuted from 20 years to 16 years expiring on May 7, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until May 7, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Leo A. Higgins, No. 7834, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Leo A. Higgins, convicted of burglary and larceny in the Court of Oyer and Terminer and Quarter Sessions of Susquehanna County on February 17, 1943 be commuted from 15 years to 12 years, 6 months expiring on May 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age. He had a prior criminal record consisting of some Juvenile offenses. The offense for which he was sentenced for from seven and one-half to fifteen years in the Eastern State Penitentiary from Susquehanna County involved the breaking into garages and stealing of small sums of money and automobile tires.

The applicant was paroled on May 8, 1950 and he moved to New York State with the consent of the Parole Board. He is employed by General Motors in Towanda. He is married and the report from the Board of Parole states that since his return to the Community he is considered to be of good reputation.

The New York State Parole Agents recommend that favorable consideration be given this applicant for commutation of his maximum sentence.

The trial Judge, the Honorable Edward P. Little, has submitted no opposition and likewise the District Attorney of Susquehanna County offered no opposition to this commutation of maximum sentence. Therefore, the Board recommends that his maximum sentence be reduced to twelve years, 6 months, expiring on May 28, 1955

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Kay, E-219, No. A-1152, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: This applicant is thirty years of age. He has no prior record. On March 24, 1948, this applicant, together with an accomplice, robbed a garage and killed the attendant. This offense occured in 1943. Following that, the applicant became a member of the United States Army and served with Distinquished Service in the European Theatre. Upon his return to the United States he submitted himself to the authorities in Philadelphia and confessed to his crime. At the time of this offense he was eighteen years of age. He plead guilty and Judges Oliver, MacNeille and Sloane heard the testimony and sentenced him to life imprisonment.

One member of the trial Court, the Honorable L. Stauffer Oliver, personally appeared before the Board and made an eloquent plea for commutation of this sentence. He expressed the opinion that the facts that were brought out at the hearing indicated that a miscarriage of justice may have been made. The accomplice wielded the weapon and although under the law the accomplice, who was equally guilty, did not receive a sentence of life imprisonment, but surrounding circumstances were of such nature that mercy should be extended.

While in combat, this applicant exposed himself and performed acts of heroism, which proved to Judge Oliver and the Assistant District Attorney that he was attempting to expiate his crime by deeds of heroism. Judge Oliver stated that the Judges MacNeille and Sloane, of the Philadelphia Courts, concurred in his statements. The District Attorney of Philadelphia stated to the Board that he was not opposed to the granting of commutation.

The unusual occurance of a Trail Judge in appearing before the Board pleading for commutation of a prisoner who he had sentenced, making a full and adequate explanation of why he was compelled to sentence as he did, persuades the Board that this young man is worthy of restoration to society.

The authorities of the State Penitentiary at Graterford state that he has a very satisfactory record in the Institution.

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board recommend that the minimum sentence of William Kay, convicted of Murder, in the First Degree, in the Court of Oyer and Terminer of Philadelphia County on March 24, 1948, be commuted from life imprisonment to seven years, two months, expiring on May 24, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.

(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Langham, Charles R. 1681-C, No. 2989, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Charles R. Langham, 1681-C, convicted of burglary in the Court of Quarter Sessions of Clearfield County on February 3, 1947, be commuted from 10 years to 8 years 3 months expiring on May 3, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 3, 1957

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Sylvester Laskowski, No. A-3006, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Sylvester Laskowksi, convicted of setting up and maintaining an illegal lottery, in the Court of Quarter Sessions of Allegheny County, on September 29, 1950 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-nine years of age. He had one prior arrest, but no conviction, for gambling. He was sentenced on the charge of setting up and maintaining and illegal lottery by the Quarter Sessions Court of Allegheny County in September, 1950, to pay a fine of one hundred dollars.

This applicant is self-employed, operating a Grocery Store with his brother. He has made application for the pardon to obtain a position with the City of Pittsburgh and believes that a pardon for this minor offense will aid him in obtaining this employment. Several of the citizens of Pittsburgh have written to the Board stating that he has taken good care of his family, is a reputable member of his community, and is living an honest and upright life.

The Board of Parole's investigation confirms the opinions of his friends as to his excellent conduct for the past five years. The District Attorney of Allegheny County said that their office had no objection to the granting of this pardon. The Board, therefore, recognizes that this man, who had demonstrated his adjustment and realizes his responsibilities to his family and to his Communty, merits the mercy of the State, and recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Gilbert U. Laurence, 3445, No. 2975, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Gilbert U. Laurence, convicted of sodomy, in the Court of Oyer and Terminer and Quarter Sessions of Elk County on June 11, 1954, computed from June 10, 1954, be commuted from 2½ years to 1 year expiring on June 10, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-four years of age. He had no prior criminal record. He was found guilty of the crime of sodomy and sentenced, on June 11, 1954, computed from June 10, 1954, to 2½ to 5 years in the Western State Penitentiary.

This applicant was intoxicated when he committed this offense. It was felt that in view of his prior good record and his behavior while in the custody of the Western State Penitentiary that he received an unduly severe sentence.

Prior to his conviction he was in business in St. Mary's, Penna., and his wife still operates the restaurant in that community.

Judge Joseph L. Trambley, and the district attorney of Elk County did not voice opposition to the application for cmmutation.

The Board feels that the applicant has been sufficiently punished and that he will not become involved in offenses of this character in the future.

Since this applicant has served nearly one year of his minimum sentence we recommend that his sentence be commuted when he has served one year, effective June 10, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Linonis, 882-D, No. 7354, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Linonis, convicted of entering to commit felony, receiving stolen goods, burglary, in the Court of Quarter Sessions of Venango County on May 5, 1942, computed from January 11, 1942, be commuted from 20 years to 13 years, 5 months, expiring on June 11, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 11, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Andrew Lippke, No. A-3007, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Andrew Lippke who plead guilty to charges of larceny in the Court of Quarter Sessions of Allegheny County on May 20, 1927; who was convicted of statutory rape in the Court of Oyer and Terminer of Allegheny County on January 14, 1936; and who plead guilty to charges of lottery in the Court of Quarter Sessions of Allegheny County on November 20, 1945, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age. He was sentenced in May 1927 on the crime of larceny and placed on probation. He was sentenced in January 1936 on the crime of rape and served six months in the Allegheny County Workhouse. He was sentenced in November 1945 to the crime of lottery and found guilty and sentenced to thirty days in the Allegheny County Prison.

The applicant is requesting a pardon because he desires to obtain employment with the City of Pittsburgh.

The sentencing Judge, the Honorable J. Frank Graff, states that he has no objection to the granting of pardon.

The district atteorney of Allegheny County likewise expressed no opposition. The applicant has been employed by the Yellow Taxicab Company of Pittsburgh for the past four years and has conducted himself in a very satisfactory manner. He is occupying a home that he is buying, has a wife and child and bears an excellent reputation in the community.

In view of the excellent conduct of this applicant since his last offense and the recommendations from his friends and acquaintances, the Board feels that there will be no further involvement of the applicant in criminal activities. At present this applicant is suffering from a severe heart attack and this act of mercy of the Commonwealth may help him in recovering his health. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Herman Loacker, 2946-B, No. 3359, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Herman Loacker, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 14, 1932, be commuted from 60 years to 23 years, 1 month, 18 days, expiring on June 1, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 19, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervison.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Harold Traverse McBride, No. A-2987, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Harold Traverse McBride, convicted of burglary, in the Court of Oyer and Terminer of Lebanon County on July 7, 1954, computed from June 14, 1954, be commuted from 2 years to 1 year, expiring on June 14, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age. He has no prior criminal record. He was convicted of the crime of burglary and was sentenced, July 7, 1954, for from two to four years in the Lebanon County Prison. The crime consisted of a series of burglaries of stores and shops in Lebanon County. Partial restitution has been made of some of the merchandise stolen.

The trial judge, the Honorable A. Harry Ehrgood, and the district attorney of Lebanon County felt that probably the application was a bit premature. However, the Board was much impressed with the statement of his spiritual advisor that the applicant was quite contrite and has improved very much both morally and spiritually. Every assurance was given to the Board that this applicant never again will become involved in offenses of this nature.

The Board, therefore, recommends that the minimum sentence be reduced to one year, effective June 14, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of James Francis McCall, No. A-2991, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that James Francis McCall, convicted of violation of Pennsylvania Liquor Control Act and poolselling and bookmaking and establishing a gambling house, in the Court of Quarter Sessions of Philadelphia County, on February 7, 1945, and February 20, 1951, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age. He had no prior record. He was sentenced in 1945 for violation of the Liquor Control Act and was given a suspended sentence. Again, in 1951 he was sentenced on charges of poolselling and bookmaking and was fined one hundred dollars.

The applicant, following his 1951 offense, has never become involved in any further criminal activities. At present he is employed as a clerk in the Quarter Sessions Court of Philadelphia County and he desires a pardon to take a civil service examination.

The Board of Pardons investigation indicates that his conduct is exemplary and they speak very highly of his work record and reputation in the community. The District Attorney of Philadelphia County is not opposed to the application, and the Board believes that this man has demonstrated by his exemplary conduct that he will not become involved in any violation of the law.

The trial judge, the Honorable Vincent Carroll states: "I would recommend that it be granted unless there is some definite policy against granting applications of this kind."

The Board feels that, in view of all the above facts, a pardon should be granted and so recommends.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of William M. Meehan, E-538, No. A-2998, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William M. Meehan, convicted of burglary in the Court of Quarter Sessions of Philadelphia County on September 24, 1948, computed from April 16, 1948, be commuted from 11½ years to 7 years, 2 months, expiring on June 16, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-seven years of age. He was involved as a juvenile in thirteen offenses. In 1948 he was sentenced on the crime of burglary for from eleven and one-half to twenty-six years in April of that year. The sentence he received in Philadelphia County was for stealing two automobile tires, tubes and wheels. The sentencing judge had been misinformed as to the prior record of this applicant. The district attorney of Philadelphia County felt that this applicant was probably given this severe sentence on the basis of the prior record that did not exist. The sentencing judge was evidently mislead. The district attorney further expressed his belief that this applicant has been more than punished for any offenses that he may have committed.

The Board agrees with the district attorney and due to the applicant's satisfactory prison record they have every confidence that he will take his place in society without further becoming involved with the law.

The applicant has served seven years two months of his minimum sentence and we recommend that it be commuted expiring June 16, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Russell Montana, 7753-C, No. 6855, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Russell Montana, convicted of robbery armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Luzerne County on November 16, 1953, be commuted from 20 years to 19 years, 6 months, expiring on May 16, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 16, 1955.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Clyde Mutzabaugh, 270-C, No. 7890, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Clyde Mutzabaugh, convicted of conspiracy to burglarize, burglarly, receiving stolen goods, possession of burglarly tools, etc., in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 12, 1943, be computed from 23 years to 12 years, 2 months, expiring on June 12, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 12, 1966.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of William Nicholson, 5336-C, No. A-3013, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William Nicholson, convicted of assault and battery with intent to steal, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 24, 1938, computed from June 23, 1938, be commuted from 5 years to 2 years, expiring on June 23, 1953.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 23, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Charles Pastelyak, No. 6723, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Charles Pastelyak, convicted of burglary and larceny, in the Court of Quarter Sessions and Oyer and Terminer of Lehigh County on January 6, 1940, computed from November 18, 1943, be commuted from 16 years to 11 years, 6 months, expiring on May 19, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. The applicant's prior record involved two juvenile delinquencies for burglarly and larceny, in Northampton and Lehigh Counties, sentences he served in the Eastern State Penitentiary.

His sentence was commuted from November 19, 1943 and is for from eight to sixteen years in the Eastern State Penitentiary. The applicant received a commutation of his sentence in April of 1947 and was paroled, effective April 20, 1947.

This applicant requests that his maximum sentence be commuted for the reason that he desires to go into business, which will require frequent absences from his home county.

The Board of Parole expressed the opinion that this applicant has been under their supervision for almost eight years and his adjustment has been favorable. The district attorney of Lehigh County had no objection to the granting of commutation and the President Judge of Lehigh County, the Honorable James F. Henninger recommends favorable action by the Board.

The Board believes that this man has readjusted himself and has demonstrated his desire to live a law-abiding life and no good purpose would be served by continuing him under parole supervision. The Board therefore, recommends that his maximum sentence be commuted to eleven years, 6 months, expiring May 19, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Rocco Pellegrino, No. A-2968, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Rocco Pellegrino, convicted of murder, in the second degree, in the Court of Quarter Sessions of Mercer County, on May 2, 1916, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is seventy-two years of age. He was born in Italy. He had no prior record until he was sentenced to imprisonment in the Western State Penitentiary for from sixteen to twenty years for murder in the second degree.

This was a crime of passion. In October 1931, the applicant was paroled and since that time has been residing in Greenville, Pennsylvania, and has conducted himself as a law abiding resident and enjoys a good reputation. At no time has he violated his parole.

The applicant desires to make application for citizenship.

The Board feels that this applicant, having spent his entire parole and the years following with an excellent conduct, he deserves the mercy of the State. We, therefore, recommend that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Dario Pollino, 7390-C, No. 6756, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Dario Pollino, convicted of murder in the second degree, in the Court of Oyer and Terminer of Allegheny County on October 2, 1936, be commuted from 20 years to 18 years, 7 months, expiring on May 2, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 2, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Russell Priestman, 441, No. 5310, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Russell Priestman, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminier and Quarter Sessions of Philadelphia County on March 10, 1931, computed from July 11, 1946, be commuted from 30 years to 8 years 11 months expiring on June 11, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 11, 1976,

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term

of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Raymond Ridosh, No. A-1906, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that John Raymond Ridosh, convicted of larceny and receiving stolen goods in the Court of Quarter Sessions of Allegheny County, on October 15, 1951 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age. He had one prior arrest for larceny and was placed on probation for a period of one year. The offense was stealing equipment from T. W. A., for which offense he was placed on probation for a period of one year and discharged October 15, 1952.

Since that time he has been regularly employed by various Aircraft Companies in the Pittsburgh area. He has been very active, according to information received, in the Ukranian Youth League and by his example has been helpful to young people in that area.

The Trail Judge, the Honorable J. Frank Graff, states that he has no objection to the action of the Board and the Probation Officer of Allegheny County indicates that the applicant has lived up to his Parole contract.

The Board recommends that the mercy of the Commonwealth be extended to this applicant and that a pardon be granted in view of his evident adjustment to the Community life and his exemplary conduct.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Ross, 318-B, No. A-2966, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Charles Ross, convicted of robbery, in the Court of Quarter Session, May 10, 1948 computed from April 8, 1948, be commuted from 10 years to 7 years 1 month expiring on May 8, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 8, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Irving Schonberg, No. A-2967, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Irving Schonberg, convicted of gambling, in the Court of Quarter Sessions of Philadelphia County, on February 15, 1938 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age. He had no prior criminal record. He was arrested and fined for gambling in Philadelphia in February 1938. He paid his fine and costs and is now employed by the New Jersey Racing Commission as a cashier.

The Trail Judge, the Honorable James C. Crumlish, recommends favorable consideration. The District Attorney of Philadelphia County was opposed to the application, and the New Jersey Parole Board reports that their investigator indicates that this applicant bears a good reputation and has never become involved in any legal activities since his release.

This application is based upon his desire to continue his employment, which is one of responsibility and trustworthiness. The Board, in view of the excellent conduct and fine reputation that he has acquired, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Uriah Smith, D-6543, No. 9109, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Uriah Smith, convicted of murder in the first degree, in the Court of Oyer & Terminer of Philadelphia County on June 17, 1942, computed from December 11, 1941 be commuted from life to 13 years, 8 months, 10 days expiring on August 21, 1955, on condition that he return to his home in Jamaica, B. W. I.

Our reasons for making this recommendation are as follows:

This applicant is fifty-eight years of age. He had no prior criminal record The applicant was sentenced to life imprisonment for the crime of murder in the first degree arising from the fatal shooting of the victim in Philadelphia. The tragedy arose from an argument involving a broken engagement to marry between the victim and the applicant.

The trial Judge, the Honorable Francis Shunk Brown, Jr., states that he would have no objection to the commutation of the sentence provided that the applicant returns to his home in the Island of Jamaica. The District Attorney's office in Philadelphia likewise expresses the opinion that they would have no objection provided that he returns to the Island of Jamaica. There is no deportation warrant lodged with the Penitentiary but assurance have been given that this applicant will return to his home.

The Vice President of the Girad Trust Corn Exchange Bank, R. C. MacDougall, stated before the Board that this applicant will return to the Island of Jamaica.

The Penitentiary reports that his conduct has been very good and further states: "recommended for commutation of sentence because of no previous arrests or convictions, excellent adjustment, maturity and insight into problems of behavior."

Assurances have been received from the British Consulate General, Philadelphia, that they will facilitate his return to the Island of Jamaica. The Board, in view of all the facts set forth above, recommends that this applicant's sentence be commuted, provided he returns to his home in Jamaica, British West Indies.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Dino Tabarrini, E-4113, No. 2747, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Dino Tabarrini, convicted of larceny, in the Court of Oyer and Terminer and Quarter Session of Lackawanna County on October 14, 1953, be commuted from 2½ years to 1 year 8 months expiring on June 14. 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age. He had a prior criminal record involving robberies while a minor and a liquor violation. He was sentenced for the crime of larceny by the Court of Lackawanna County on October 14, 1953 for from two and one-half to five years.

The district attorney of Lackawanna County states that he has no objection to commutation and the trial judge, the Honorable Michael J Eagen, likewise expressed no opposition relying upon the discretion of the Board as to whether or not application should be granted.

This applicant has served a substantial portion of his minimum sentence with a good institutional record, we are recommending that his minimum sentence be commuted to one year eight months, expiring June 14, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ross C. Vilches, D-9440, No. 2424, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Ross C. Vilches, convicted of robbery, in the Court of Oyer and Terminer of Philadelphia County on January 27, 1947, computed from January 16, 1947, be commuted from 50 years to 8 years 5 months expiring on June 16, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-seven years of age. He had a prior criminal record consisting of two arrests but no convictions. In January 1947 he was sentenced in Philadelphia to fifty to one hundred years in the Eastern State Penitentiary on charges of robbery. He was involved in a series of seven or eight robberies of taxicab operators and was sentenced by the late Judge Harry S. McDevitt.

The prison authorities report that this applicant has made an excellent adjustment and has maintained an exemplary record and is in fact an exceptional prisoner. The assistant district attorney of Philadelphia stated that applicant was first offender in the eyes of the law and that the sentence he received for a first offense was out of all proportion to the crime committed.

Although this type of crime is most serious, the splendid adjustment that this applicant has made during his incarceration has persuaded the district attorney that the applicant will not become involved in any further criminal activities if released.

The Board believes that this applicant has reached that period in adjustment and rehabilitation in view of the severeness of the sentence for a first offender, that merits his commutation. He served eight years three months of his minimum sentence and will be under the supervision of the parole Board the rest of his life. The Board, therefore, recommends that his sentence be commuted to expire June 16, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Earl E. Wentzel, No. A-2986, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Earl E. Wentzel, convicted of maintaining gambling places in the Court of Quarter Sessions of Montgomery County, on May 29, 1952 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is sixty-four years of age. He has no prior criminal record. He was Secretary of a Club in Pottstown and he, together with other officials of the Club, was convicted of maintaing a gambling place. They operated slot machines. In June 1952 he was sentenced to pay a fine of two hundred and fifty dollars and to spend ten day in the Montgomery County Prison. He was released in June 1952.

Following his parole he was employed by the County of Montgomery in the Recorder of Deeds Office, where he is working. He enjoys a very fine reputation and Honorable George C. Gorson, the Trial Judge, expresses no opposition to this application for pardon.

The Board feels that the conduct of this applicant has been exemplary over the past years and that the good wishes of his friends, neighbors and business associates lend confidence to the action of the Board in recommending that his request for pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN—Dissents
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward Wright, 7200-C, No. 9096, April Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Edward Wright, convicted of robbery, armed with an offiensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on June 28, 1943, computed from June 22, 1943 be commuted from 15 years to 11 years 11 months expiring on May 22, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 22, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) WILLIAM S. LIVENGOOD, JR.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George Barnhill, C-2269, No. A-2288, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of George Barnhill, convicted of voluntary manslaughter in the Court of Oyer and Terminer of Beaver County on June 25, 1951, computed from March 12, 1951 be commuted from 6 years to 4 years, 3 months, 10 days expiring on June 22, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-three years of age. He was sentenced for the crime of voluntary manslaughter by Judge Robert McCreary of Beaver County to a term of six to twelve years, effective March 12, 1951. The crime consisted of killing a man who is alleged to have threatened him with a switch-blade knife, wherein the applicant shot him with a revolver that he alleges he was taking with him for target practice that day. The applicant plead not guilty to the charge of murder and was convicted by a jury of voluntary manslaughter.

The district attorney of Beaver County relies on the Board for their decision in the matter. Parole Officer Welch states that this man has an excellent record in the institution and has served over two-thirds of his minimum sentence for a crime that well may have been justifiable homicide.

During the applicants incarceration he has made every attempt to improve himself. He entered as an illiterate and is now able to read and write. The institution further reports that he has an outstanding conduct and work record and can be rated as a most cooperative inmate.

The Board believes that this applicant, who has for the past four years, made such an excellent record within the institution, and who has no previous criminal record, should be released to continue his good habits learned in the penitentiary.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.

(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Henry Bradley, No. A-3051, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Henry Bradley, convicted of assault with intent to ravish, in the Court of Quarter Sessions of Delaware County on December 11, 1953, computed from August 13, 1953, be commuted from 2 years, 6 months to 1 year, 10 months, expiring on June 13, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty years of age. His prior record consisted of an automobile violation. He was sentenced by the Delaware County Court to two and one-half to five years in the Delaware County Prison, effective August 13, 1953. The applicant plead not guilty to the crime of assaulting his ten-year-old daughter with intent to ravish. The applicant has strongly denied this accustation and subsequent record of the family lends credence to the belief that this applicant may have been convicted on testimony of his sister-in-law, who despised the applicant and that the child was coerced in testifying against him.

The trial judge the Honorable William R. Toal, recommends that serious consideration be given to the commutation of the minimum sentence in view of the sister-in-law's and his wife conspiring to frame him on this charge. The district attorney of Delaware County suggested that the applicant may have been framed and recommends the commutation of his sentence.

The report of the Delaware County Prison states it is believed the applicant will make a fair parole risk and states further that his conduct during incarceration has been good.

In view of all the above facts the Board recommends that the minimum sentence of this applicant be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Paul Conner, E-197, No. A-2297, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Paul Conner, convicted of murder, in the second degree, in the Court of Oyer and Terminer and Quarter Sessions, March 11, 1948, computed from December 16, 1947, be commuted from 10 years to 7 years, 6 months 10 days, expiring on June 26, 1955.

Our reasons for making this recommenation are as follows:

This applicant is fifty years of age. He had no prior criminal record. He plead guilty to the crime of murder in the second degree before Judge Levinthal of the Oyer and Terminer Court of Philadelphia County and was sentenced from ten to twenty years, effective December 16, 1947. The sentencing judge states "I write to inform you that I have no objection to the granting of this petition." Likewise assistant district attorney Wright stated before the Board that he had no objection to the granting of commutation.

The applicant has an honorable discharge from the United States Army and he has established and maintained an unblemished disciplinary record and all department reports are most favorable.

It was said that an excellent parole plan had been set up for this applicant and the Board believes that this man has rehabilitated himself and will conduct himself in an exemplary manner if released. The Board, therefore, recommends the commutation of his minimum sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of W. Elmer Double, B-5068, No. A-3024, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of W. Elmer Double, convicted of Murder in the first degree in the Court of Quarter Sessions of Butler County on June 16, 1936 be commuted from life imprisonment to 19 years expiring on June 16, 1955.

Our reasons for making this recommendation are as follows:

This applicant is seventy-eight years of age. He had no prior criminal record. The paplicant plead guilty to the crime of murder in the first degree and was sentenced by the late Judge Wilson of Butler County to life imprisonment, effective June 16, 1936.

The applicant became involved in a dispute with his sister, arising over his wife and he killed her with a club. The applicant has been confined for over nineteen years and the institution reports that his conduct has been exemplary.

The district attorney of Butler County has no objection and the trial judge is deceased, and the present judge has offered no comment.

The applicant is a Spanish American War Veteran and he receives a pension. Likewise he has a small annuity from the estate of a relative. Parole Officer Welch states that he believes this applicant, if released, cannot hope to live very long but he will not be a dependent on the public because of his income from pension and inheritance amounting to about $150.00 a month. His wife is still living, although in poor health.

The Board is of the opinion that a man of his years with the fine institutional record and with no prior crimi-

nal record can safely be released with the assurance that he will commit no offense in the future. The Board, therefore, recommends the commutation of his sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) ROBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James English, 7745-C, No. 6850, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James English, convicted of murder in the second degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on June 24, 1938, computed from December 27, 1937 be commuted from 20 years to 17 years, 6 months expiring on June 27, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 27, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) ROBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter Fischer, E-1245, No. A-2061, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Walter Fischer, convicted of robbery, armed with an offensive weapon; conspiracy to rob; carrying concealed deadly weapons without a license in the Court of Oyer and Terminer of Philadelphia County on September 12, 1949, computed from July 29, 1949 be commuted from 7 years to 5 years, 11 months expiring on June 29, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age and he has no previous criminal record. He was sentenced by the Court of Oyer and Terminer of Philadelphia County to a term of seven to forty years for the crimes of robbery, armed with an offensive weapon, conspiracy to rob, and carrying concealed deadly weapons without a license. The applicant, with two accomplices, entered a loan office in Philadelphia and held up the manager, tied up two victims and fled with Five Hundred and Seventeen Dollars. They were also involved in a number of taxicab hold-ups.

The trial judge, the Honorable Louis E. Levinthal, did not express himself with respect to this applicant. However, assistant district attorney Wright interviewed this applicant at the pentitentiary and was much impressed by him and stated that he was not opposed to the granting the application.

The applicant, during his incarceration, has studied automobile mechanics and has made good progress in learning that trade. Likewise, he has been employed in the prison tailor shop and his supervisor reports his record good. His institutional record is rated as good, also.

One of his accomplices has been released and the other is still confined. The Board believes that this applicant has made every effort to rehabilitate himself and is sufficiently well adjusted that if released he will become a law-abiding citizen, and therefore, recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Gilmore, 9166-C, No. 6116, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Gilmore, convicted of burglary in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 26, 1939, computed from March 31, 1939 be commuted from 15 years to 5 years, 4 months, 27 days expiring on June 15, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 28, 1956.

For the reason that this applicant has served a long time on parole, and the further reason that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward K. Hayre, No. A-3036, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Edward K. Hayre, convicted of burglary in the Court of Oyer and Terminer of Allegheny County, on May 8, 1942 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age. This was his first conviction, having no prior record He plead guilty to the crime of burglary and was placed on probation for a period of two years, effective May 8, 1942, by Judge James L. O'Toole of Allegheny County, now deceased. He had no accomplice and his offense consists of entering a series of private dwellings and stealing various items therefrom. We are informed that he made restitution and paid the costs.

At the present time the applicant is living in Pittsburgh and is suffering from a heart condition. He advises that his physical condition prevents him from taking up ordinary employment and when he applies for employment suitable to his health condition the matter of this offense seems to prevent his engagement.

The district attorney, D. Albert Mazer, was not opposed to the granting of this application and the parole officer reports that he was a good probationer and bears a very good reputation in his community and among his acquaintances.

Since this applicant has maintained an excellent conduct record for the past thirteen years, the Board feels that he has earned the mercy of the Commonwealth and recommends that he be pardoned.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Hofften, No. A-2928, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Joseph Hofften, convicted of receiving stolen goods in the Court of Quarter Sessions of Philadelphia County, on October 22, 1936 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-nine years of age. He had no prior criminal record. He plead guilty to the crime of receiving stolen goods and his sentence was suspended. The crime consisted of being in possession of ten cartons of stolen cigarettes.

Since 1936 the applicant has maintained an excellent record and has never been involved in any further offenses. His reputation, among his neighbors and friends, is excellent. At present he is employed by the Registration Commission of the City of Philadelphia, where it is reported his work is very satisfactory.

The applicant is requesting this pardon so that his name may be cleared and there be no question as to his status as an employer of the City of Philadelphia.

He holds an honorable discharge from the United States Army from the first world war, received a medal for distinguished service in several of the battles of that war.

The trial judge, the Honorable Eugene V. Alessandroni, has no objection to the granting of a pardon and likewise the assistant district attorney of Philadelphia County is not opposed to the granting of this application. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Donald Richard Irvin, No. A-2486, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Donald Richard Irvin, convicted of burglary in the Court of Oyer and Terminer and Quarter Sessions of Dauphin County on January 12, 1949, computed from December 31, 1948 be commuted from 15 years to 6 years, 5 months, 29 days expiring on June 30, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age. He, together with two accomplices, entered three business places in Harrisburg and stole about One Hundred and Forty Dollars worth of goods. The applicant was sentenced by Judge Rupp of the Quarter Session Court of Dauphin County for from fifteen to thirty years.

The applicant had a prior juvenile record. However, the district attorney of Dauphin County expressed the opinion that it was too heavy a sentence for the offense. The trial judge is no longer on the bench and the President Judge is unavailable.

The applicant has maintained an unblemished disciplinary record and he has made efforts to improve himself since his admittance.

Since this applicant has served a considerable portion of his minimum sentence. From the reports of the penitentiary and the expression of opinion of the district attorney it is believed that this applicant has been sufficiently punished and has made effort to rehabilitate

himself and that his future conduct as a citizen will be without blemish. The Board, thehefore, recommends that his minimum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Kleminich, No. A-3030, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that John Kleminich, convicted of larceny in the Court of Quarter Sessions of Northampton County, on September 25, 1922 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-two years of age. He had a prior record of one arrest and no conviction. This was of minor character.

The present offense was larceny of an automobile for which he received a sentence of three years in the Northampton County Prison. He plead not guilty before the late Judge Robert A. Stotz. The facts of the crime are that he, together with three other boys, were driving home from a dance in the Northampton to Allentown. The applicant was not involved in the theft of this automobile and alleges that he had no knowledge that it was a stolen car when he entered it.

Judge William G. Barthold, of Northampton County, does not express an opinion as to the merits of this case.

The Board is of the opinion that this applicant was involved in this escapade without knowledge of the seriousness of the offense and it is open to question as to whether or not he knew the car was a stolen one. At the time of this theft the applicant could not drive an automobile. At present the applicant is a resident of Syracuse, New York and the New York State Parole authorities report that he lives in Syracuse and his conduct has been exemplary and he has not been involved in any offense since residing in that City.

The Board has on file letters from Chief of Police, Syracuse; Rev. Joseph F. Sadowski, Assistant Pastor of the Sacred Heart Church; and former Mayor of Syracuse, all setting forth that they have known the applicant for a great many years and that he is of good character and well-liked in the community. The applicant desires to own and operate a tavern in New York State and in order to apply for such a license he must have a pardon covering the prior conviction. The Board recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Lewan Kyryczruk, C-3399, No. 3591, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minmum sentence of Lewan Kyryczruk, convicted of Murder in the first degree in the Court of Oyer and Teminer and Quarter Sessions of Philadelphia County on April 30, 1926 be commuted from Life imprisonment to 29 years, 2 months expiring on June 30, 1955.

Our reasons for making this recommendation are as follows:

This applicant is sixty-two years of age and he has no prior record except a non-support charge lodged against him years ago. He plead not guilty to the offense of murder in the first degree. The crime arose because of a quarrel between he and his wife. As a conclusion to the quarrel the applicant shot her and she died. The late Judge Harry S. McDevitt sentenced the applicant to life imprisonment, effective April 1926. He has now served twenty-nine years of this life sentence with an excellent institutional record.

The institution reports that for the past nineteen years he has had no misconduct reports. At present he is employed on the block in the penitentiary.

The trial judge being deceased there is no report from the court. However, assistant district attorney Victor Wright of Philadelphia County feels that this applicant has served a long time and that since he has arranged with the Salvation Army to sponsor him he is not opposed to the granting of commutation.

The Board believes that with the excellent record this man has made for the long period of time he has been confined and with no prior criminal record, there is every confidence that this applicant, upon release, will never violate the law and will be a good law-abiding citizen.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Milton Leigey, 5135-C, No. A-3027, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Milton Leighey, convicted of contributing to the delinquency of a minor and rape in the Court of Quarter Sessions of Clearfield County on September 29, 1947 be commuted from 8 years to 7 years, 9 months expiring on June 29, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on

the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 29, 1955.

For the reason that this applicant has served a long time on parole, and the further reason that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles W. Lewis, E-1610, No. A-3045, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Charles W. Lewis, convicted of burglary with intent to rob and robbery in the Court of Quarter Sessions of Philadelphia County on April 4, 1950, computed from March 15, 1950, be commuted from 10 years to 5 years, 3 months, 10 days expiring June 25, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-five years of age. He has no previous criminal record. He was sentenced for the crime of robbery, burglary and carrying concealed deadly weapons by the Court of Philadelphia County to a term of ten to thirty years, effective March 15, 1950. The offense consisted of entering a jewelry shop in Philadelphia at the point of a gun and stealing about fifty dollars in money and jewelry. The applicant alleges that the money and jewelry were stolen in order to make an impression upon his girl.

During his incarceration he has maintained a very excellent record and has made fair progress in improving his education. The institution states his record is very good.

The trial judge, the Honorable Joseph Sloane, has not forwarded his comments on this applicant, but the district attorney of Philadelphia County states he is not opposed to the granting of clemency in this matter. The Board believes that this young man, under the impression of making a favorable impression upon his sweetheart went to extraordinary efforts to gain her regard and the result being that he has paid well and long for his offense.

The institution report indicates that he has fully realized that by violating the law it has been a most expensive procedure and that his very good conduct and efforts while incarcerated speak for his determination to live a law-abiding life in the future. The Board, therefore, recommends commutation.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Thomas R. Maines, 5299-C, No. 9326, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Thomas R. Maines, convicted of rape, adultery and bastardy in the Court of Quarter Sessions of Clearfield County on September 29, 1947 be commuted from 10 years to 7 years, 9 months expiring on June 29, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 29, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert A. McAdams, Jr., No. A-2925, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Robert A. McAdams, convicted of robbery in the Court of Oyer and Terminer of Allegheny County on April 6, 1954, computed from March 12, 1954 be commuted from an indeterminate to 6 years term to 1 year, 3 months expiring on June 12, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty years of age. He was sentenced for the crime of robbery by the Court of Allegheny County to an indeterminate sentence to 6 years, effective March 12, 1954, in the Pennsylvania Industrial School, Camp Hill, Pa. This offense consisted of robbing a roadside restaurant in company with another young man and an older woman. This applicant had no prior record.

This offense seemingly occurred on the day he returned home upon discharge from the United States Marine Corp

and he was celebrating his release. His record in the Marine Corp was excellent and he received an honorable discharge.

The district attorney of Allegheny County was not opposed and the trial judge, the Honorable Russell Adams recommended that "leniency be extended to this young man."

Letters have been received from citizens of Allegheny County expressing their confidence both in him and the very excellent family of which he is a member. The Pennsylvania Industrial School reports an excellent conduct record, where he is now presently assigned as an aid to the chaplain.

His accomplice, a young man of the same age, has been released from the Pennsylvania Industrial School. The Board recommends for your consideration the commutation of his sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Bernard Francis McAneny, 6812-C, No. 8606, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Bernard Francis McAneny, convicted of burglary and larceny in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on March 15, 1943, computed from January 30, 1943 be commuted from 20 years to 12 years, 5 months expiring on June 30, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 30, 1963.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James McArthur, D-9762, No. A-801, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James McArthur, convicted of murder in the second degree in the Court of Quarter Sessions of Philadelphia County on July 15, 1947, computed from March 12, 1947 be commuted from 10 years to 8 years, 3 months, 10 days expiring on June 22, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-six years of age. He had one prior arrest and conviction. He was sentenced by Judge Levinthal on the crime of murder in the second degree for from ten to twenty years, effective March 12, 1947. It would appear that the applicant was engaged in a dispute with two men and later in the day the same two men again started to fight with him. The applicant, believing that one of his assailants was going to shoot him, and so, in self-defense, he shot one of his assailants.

The sentencing judge has made no report as to his opinion of this case. However, assistant district attorney Wright personally interviewed the applicant in the penitentiary and was very much impressed by him. Believing that he has been sufficiently punished for his crime, the assistant district attorney is not opposed to the granting of a commutation of sentence.

The institution reports that the applicant has maintained an unblemished disciplinary report and currently enjoys a very good vocational report. These reports rated him as very good.

The Board is of the opinion that this applicant has made every effort in the institution to prepare himself or a future life of good behavior and they recommend that this applicant's sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Walter Mitchell, 6966-C, No. 4296, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Walter Mitchell, convicted of murder in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on November 22, 1926 be commuted from life to 28 years, 7 months expiring on June 22, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William H. Mitchell, III, No. A-3023, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that William H. Mitchell, III, convicted of larceny in the Court of Quarter Sessions of Allegheny County, on July 17, 1952, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty-three years of age and this was his first major conviction. He was sentenced for the crime of larceny of an automobile by the Court of Allegheny County on July 17, 1952 for a probationary period of two years and in addition made restitution. His three accomplices received a similar sentence. The applicant was released from probation in February 1953 and entered the Army and was honorably discharged, with the rank of corporal, on the 15th of February 1955.

Since his return from the army he has held a rather confidential position as mail clerk with the Pittsburgh and Lake Erie Railroad. The parole agent reports that his reputation in the community is excellent and his employer expresses satisfaction with his record. He desires to go to a school out of the State under the G.I. Bill of Rights in September of this year.

The sentencing judge, the Honorable Ralph T. Bell, writes that he has no objection to the granting of a pardon. The district attorney of Allegheny County likewise expressed no objection. The Board, therefore, recommends the granting of a pardon by your Excellency

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Stanley Motyle, 7489-A, No. A-3020, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Stanley Motyle, convicted of larceny of autos, etc. in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on November 21, 1941, computed from November 7, 1946 be commuted from 10 years to 8 years, 7 months, 20 days expiring on June 27, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relived of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 7, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Richard Showell, D-3917, No. 9635, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Richard Showell, convicted of murder in the first degree in the Court of Oyer and Terminer if Delaware County on March 22, 1939, computed from December 28, 1938 be commuted from life imprisonment to 17 years expiring on December 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-one years of age. He has no criminal record. He was sentenced for the crime of murder in the first degree having plead not guilty and the jury bringing in a verict to the contrary. He was sentenced to life imprisonment by the late Judge Albert Dutton MacDade.

The crime consists of this applicant becoming embroiled in an argument with his wife, who was leaving the home with another man and woman, without making any preparation for the Christmas Day. The applicant was drinking and when she was leaving the next-door neighbor's home in an automobile with other people, he shot her.

The trial judge is deceased and the present judge expressed no opinion. The district attorney of Delaware County has no objection and recommends the granting of the application.

The applicant appears to have a good parole plan if released and his record in the penitentiary is excellent and he has, during his incarceration for the past sixteen years, improved himself.

This applicant committed a crime of passion and there is every reason to believe that having never been involved in any prior crime he has been sufficiently punished for this offense. With his good prison record, and his attempt to rehabilitate himself, the Board believes that he will become a law-abiding citizen in the future.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Martin Stern, No. A-3044, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Martin Stern, convicted of robbery in the Court of Oyer and Terminer of Northampton County on March 13, 1922; and further convicted of breaking and entering and assault and battery, in the Court of Oyer and Terminer of Northampton County on June 15, 1926, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-four years of age. He was sentenced to serve three years in the Northampton County Prison in March 1922, on charges of robbery, and sentenced to serve for from four to eight years in the Eastern State Penitentiary in June 1926 on charges of breaking and entering and assault and battery. The applicant served twenty-seven months of his three year sentence in the Northampton County Prison and served his minimum sentence of four years in the Eastern State Penitentiary. He was released on parole on June 14, 1930.

The applicant is now employed as a janitor in the United Steel Workers of America in Bethlehem and his reputation is considered good and he has been steadily employed since his parole in 1930.

The trial judge, the Honorable Russell C. Stewart is deceased but the present judge, the Honorable William G. Barthold, leaves the matter to the discretion of the Board.

The applicant is requesting this pardon for the reason that he desires to become a citizen of the United States and is prevented from so doing by reason of these offenses.

The district attorney of Northampton County writes that this applicant has not violated any law since arrest and conviction in 1926. The Chief of Police of Bethlehem states that the applicant has been a law-abiding citizen.

The Board feels that this applicant, being fifty years of age, and having conducted himself for the past twenty-five years in an exemplary fashion will hardly at this time of life commit any serious offense and in order that he may procure citizenship papers the Board recommends that he be granted a pardon.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Gerald Stewart, E-339, No. A-899, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Gerald Stewart, convicted or robbery, etc. in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 13, 1948, computed from April 30, 1948 be commuted from 10 years to 7 years, 2 months expiring on June 30, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-nine years of age. He has no previous criminal recorrd. He plead guilty to the crime of robbery and was sentenced by the Court of Philadelphia County for a period of ten to twenty years, effective April 30, 1948. His crime, together with his two accomplices, consisted of robbing several taxicabs. One of his accomplices had his sentence commuted and has been released on parole.

The institution reports that this applicant has maintained an unblemished disciplinary record and has earned a very stable work report.

The trial judge, the Honorable Vincent A. Carroll, relies upon the Board as to their disposition of the case. Assistant district attorney Wright stated to the Board that he personally interviewed the applicant in the penitentiary and was most favorably impressed by him; that the crime appeared to him as an economic crime as the applicant was in need of money and used this method of obtaining it. Mr. Wright very frankly stated that he was not opposed to the granting of a commutation of sentence believing that this applicant has rehabilitated himself and that if released he will be a law-abiding citizen. The Board concurring with this opinion, recommends that the sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Gilbert Taylor, D-9543, No. A-3025, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Gilbert Taylor, convicted of larceny and burglary in the Court of Quarter Sessions of Dauphin County on January 11, 1944, computed from March 26, 1947 be commuted from 13 years to 8 years, 3 months expiring on June 26, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty years of age. He was sentenced by the Court of Oyer and Terminer of Dauphin County for from thirteen to twenty-six years for the crime of larceny and burglary. He was found guilty of a series of robberies and hold-ups in Harrisburg, Pennsylvania, in 1943. There was no weapon employed in these offenses which largely consisted of larceny of an automobile and entering of private dwellings.

The district attorney of Dauphin County, Huette F. Dowling, did not oppose the application in view of the fact that no weapon was employed in the commission of these offenses and he believes that for the type of offense, having served over eight years of the minimum sentence, he has been sufficiently punished.

The institutional reports are satisfactory and the applicant has been employed for the last six years as a repairer of chairs. He has made some progress in improving his education by correspondence courses. The Board believes that this man has been sufficiently punished and from all reports believes that upon release he will be a law-abiding citizen and, therefore, recommends the commutation of his minimum sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Walsh, 436-D, No. A-3056, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William Walsh, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer of Allegheny County on October 2, 1939, computed from July 27, 1954 be commuted from 5 years to 11 months expiring on June 27, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 27, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Watson, C-8366, No. 6210, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Frank Watson, convicted of murder in the first degree in the Court of Oyer and Terminer of Delaware County on October 10, 1932 be commuted from life imprisonment to 22 years, 8 month, 20 days, expiring on June 30, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-one years of age. He had no prior criminal record excepting arrest for assault and battery. The applicant plead guilty to the crime of murder and was sentenced by Judge Donald P. McPherson, serving specially in Delaware County, to life imprisonment effective October 10, 1932.

The applicant has a splendid record in the institution and has made efforts to improve his educational standards and with his increasing age he has become more mature and stable. He gives a very favorable impression to visitors.

This offense arose over a quarrel while a group were gambling.

The Board is of the opinion that the applicant having served twenty-two years of a life sentence and having conducted himself very well in prison and having no criminal record prior to his incarceration, it is believed that this applicant has completely learned his lesson and that he will not commit any offense and will live a law-abiding life. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Francis Winters, B4282, No. 9857, May Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Francis Winters, convicted of robbery in the Court of Oyer and Terminer of Westmoreland county on August 29, 1934, computed from May 23, 1939 be commuted from 20 years to 16 years, 1 month expiring on June 23, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-six years of age. He had two arrests and one conviction. He was paroled on a first conviction from the Western State Penitentiary in Septem-

ber 1933. Then, in 1934, he together with three accomplices, robbed the Manor Bank, Manor, Pennsylvania, for which he was sentenced to twenty to forty years, effective May 23, 1939, following his parole violation. As a result, this applicant has spent nearly twenty-five years in the penitentiary.

The district attorney of Westmoreland County and the trial judge are opposed to the granting of clemency. However, the Senior Parole Officer, Mr. Welch, believes because of the excellent record of this prisoner when involved in the prison riots in January 1953; because he has reached such a stage of adjustment and rehabilitation that the institution authorities have every conviction he will conduct himself properly upon release; and because he received a maximum sentence for his offense, his application should have serious consideration. The Board believes that the opinion rendered by Senior Parole Officer Welch has much merit and that in view of the effort that the applicant has made to rehabilitate and to adjust, this application merits the consideration of the Board. We, therefore, recommend that this applicant's sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Carl R. Alessi 76458, No. A-3106, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Carl R. Alessi, convicted of bribery in the Court of Quarter Sessions of Erie County on January 6, 1955 be commuted from 1 year to 9 months expiring on October 6, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age, He has a prior record of six arrests and two convictions all on minor charges, This applicant operated a small Cigar Store in 1952 and was involved in the payment of money to the Erie Police Vice Squad for protection. He was sentenced to pay a fine of Five Hundred Dollars and for from one to two years in the Allegheny County Workhouse.

The District Attorney of Erie County did not recommend commutation basing it on the fact that the applicant plead not guilty at the trial, the District Attorney having stated previously that those persons indicted for this offense who would plead guilty, would receive his favorable recommendation. The trial judge, the Honorable Samuel Y. Rossiter, stated that he felt the sentence was justified, according to the report of the Parole Agent.

The Warden of the Allegheny County Workhouse states that the conduct of the applicant, while incarcerated, has been satisfactory.

The Board believes that this applicant has been sufficiently punished for his offense and recommends that his sentence be commuted when he has served nine months on October 6, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Rodolfo Apulche E-4361, No. A-3090, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Rodolfo Apulche, convicted of being armed with an offensive weapon with intent to rob and robbery in the Court of Oyer & Terminer and Quarter Sessions of Philadelphia County on March 10, 1954. Computed from February 17, 1954 be commuted from 2½ years to 1 year, 6 months, 10 days expiring on August 27, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-six years of age. He had one prior arrest and no convictions. His present offense consisted of a holdup, armed with an offensive weapon, of a girl in a hotel. He was sentenced for from two an one-half to ten years.

The sentencing judge, the Honorable Vincent J. Carroll, states: "I would neither recommend nor oppose commutation at this time although I think this applicant would merit consideration." The District Attorney's office of Philadelphia County likewise states that they are not opposed to the granting of clemency in this matter.

The applicant has made a satisfactory adjustment and has proved himself dependable and willing to accept responsibility. The institution reports further that his conduct and attitude has been above reproach and it is felt that confinement has had a very good effect upon him. The Board has been lead to believe that the applicant will properly conduct himself if released and will not become involved in any criminal offense in the future. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry B. Barbera, No. A-3107, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Harry B. Barbera, convicted of lottery in the Court of Quarter

Sessions of Allegheny County, on February 26, 1946, and convicted of receiving stolen goods in the Court of Quarter Sessions of Allegheny County, on December 18, 1946 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-nine years of age. He was released from probation on December 18, 1947 and since that time has been employed by the Veteran's Administration Leech Farm Hospital at Pittsburgh as a Supervisor of painters. The Chief Probation Officer of Allegheny County, J. A. Coulter, states that full restitution has been made and all costs paid incident to the Court Trials.

The sentencing Judge, the Honorable Walter P. Smart, informs the Board that he is not opposed to the granting of a pardon. The purpose of the application is to permit him to qualify under Civil Service regulations as a painter foreman.

The Board believes that this applicant, having conducted himself in a law-abiding manner, and since his general character displays traits of industry and trustworthiness, merits the recommendation of this pardon.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General,
(Sgd) GENEVIEVE BLATT.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward Camilli, 3025-E, No. A-3083, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Edward Camilli, convicted of bribery and conspiracy in the Court of Quarter Sessions of Erie County on January 6, 1955 be commuted from 1 year to 9 month expiring on October 6, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He had no prior record. He was sentenced to pay a fine of two hundred and fifty dollars and to imprisonment in the Erie County Prison for from one to two years. At the time of his conviction he was a member of the Erie City Police Department and was convicted of accepting protection money from various gamblers in the City of Erie. This policeman was not one of the principals in this matter of accepting bribes.

The trial Julge, the Honorable Samuel Y. Rossiter, did not file with the Board his opinion as to the merits of the application The District Attorney of Erie County, who appeared at the hearing, stated he would not oppose the granting of clemency but would so recommend.

The Board has on file letters from the various members of the City Police Force of Erie, testifying to the character and reputation of the applicant, as well as letters from private business concerns throughout the City of Erie. There is a petition on file covering about one hundred and eighteen names of the Police of the City of Erie stating that "* * * We know that prior to Camilli being involved in the bribery cases he was an honest and efficient policeman and a law-abiding citizen with an excellent reputation. We feel that he has been a victim of circumstances and that his exposure was a severe punishment to him and his family. We believe that further incarceration is not necessary to rehabilitate him and that if released that he can take his place in society as a law-abiding citizen."

The Board carefully considered this petition of a member of the Police force and feels that this man may have unwillingly become a partner in this offense through circumstances beyond his control. He was just an ordinary policeman and held no grade or rank in the Police Force and was subject to the control of his police officers of superior rank. The Board, therefore, recommends that his sentence be commuted when he has served nine months, expiring on October 6, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General,
(Sgd) GENEVIEVE BLATT.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Dahl, E-1244, No. A-1830-1, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Dahl, convicted of robbery, armed with an offensive weapon, etc., in the Court of Oyer & Terminer and Quarter Sessions of Philadelphia County on September 12, 1949, computed from July 29, 1949, be commuted from 10 years to 6 years, 1 month, expiring on August 29, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age. He had no prior record. His present offense consisted of a series of armed robberies for which he was sentenced for from ten to twenty years.

The Institution reports he has maintained an unblemished disciplinary record and his work record is very good. He has likewise an unusually good educational report as he has completed courses over the past five years in Machine Shop; Blue-print Reading and Refrigeration and Air Conditioning. The Institutional staff believes that this man has made a remarkable record while incarcerated.

The Board received no report from the sentencing Judge, the Honorable Louis Levinthal. The District Attorney's Office of Philadelphia is not opposed to the granting of commutation and believes that the applicant will conduct himself properly if released. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General,
(Sgd) GENEVIEVE BLATT.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Arthur Damore, 76532, No. A-3118, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Arthur Damore, convicted of bribery in the Court of Quarter Sessions of Erie County on January 6, 1955. Computed from January 25, 1955 be commuted from 1 year to 9 months expiring on October 25, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He had a prior record of one arrest for operating a lottery but was discharged. This present offense was in payment of money to the Vice Squad of the Erie Police Department for protection purposes in operating a sale of lottery tickets. Prior to his arrest the applicant was associated in the Cigar Store business and Restaurant business.

The trial Judge, the Honorable Burton R. Laub, stated that the sentence was justified but that he would neither oppose or recommend granting of celemency. The District Attorney of Erie County opposed the extension of clemency because the applicant did not plead guilty at the trial.

The Board feels, however, that this applicant has been sufficiently punished for his offense and recommends that his minimum sentence be reduced to nine months, effective October 25, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General,
(Sgd) GENEVIEVE BLATT.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Daniel Di Tullio, 76479, No. A-3079, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Daniel Di Tullio, convicted of bribery in the Court of Quarter Sessions of Erie County on January 10, 1955 be commuted from 1 year to 9 months expiring on October 10, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-three years of age. He had no prior record. This present offense was paying money to the members of the Vice Squad of the Erie Police for protection on the sale of baseball pool slips. The applicant was employed by the Erie Forge Company to nineteen forty-seven and following that to the date of his arrest, a partner in the Star News. His activities in the sale of baseball lottery tickets was to add to his income.

He was sentenced to pay a fine of two hundred and fifty dollars and to imprisonment in the Allegheny County Workhouse for from one to two years.

The Allegheny County Workhouse reports that he has conducted himself in a satisfactory manner and was employed in the Prison kitchen. The District Attorney of Erie County, who appeared at the Board meeting is not opposed to the applicant's commutation as this applicant plead guilty.

The trial Judge, the Honorable Samuel Y. Rossiter, has filed no comment as to the merits of this application with the Board.

The Board feels that this applicant has been sufficiently punished when he has served nine months and therefore, recommends that his sentence be commuted on October 10, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Endrukat, 4-604-A, No. 939, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Frank Endrukat, convicted of murder, in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on February 24, 1912 be commuted from life to forty-three years, six months expiring on August 24, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Guiseppe Guida D-5083, No. A-737, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due

public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Guiseppe Guida, convicted of murder in the first degree, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on July 29, 1940. Computed from March 30, 1940 be commuted from life to 15 years, 5 months provided he be deported to Italy expiring on August 30, 1995.

Our reasons for making this recommendation are as follows:

This appellant is sixty-four years of age. He had two prior arrests with no conviction. His present offense consisted of the killing of a woman in the course of a burglary. He was sentenced to life imprisonment in July 1940.

Since his incarceration the Institution reports that he has demonstrated a favorable adjustment and attitude which has resulted in an unblemished disciplinary record over the last fifteen years. There seems to be no tendencies for criminal behavior in his make-up.

The trial Judge is deceased and the Court has not filed any comment with the Board in this case. However, the District Attorney's office stated that it was not opposed to the granting of commutation of the sentence provided the applicant was deported to Italy. The Parole Board reports that there is a warrant for deportation on file and upon release the United States Immigration and Naturalization Service will take charge of the applicant and deport him to Italy as soon as possible. The Board, therefore, in view of warrant of deportation, recommends that his sentence be commuted, provided that deportation is effected.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Harris, E-316, No. A-3096, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Frank Harris, convicted of robbery, etc. in the Court of Quarter Sessions of Philadelphia County on April 29, 1948. Computed from April 17, 1948 be commuted from 20 years to 7 years, 4 months, 10 days expring on August 27, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age. He had one minor conviction on an assault and battery charge. His present crime involves robbing taxi cab drivers in Philadelphia, while armed with an offensive weapon. He was sentenced by the late Judge Harry S. McDevitt to a term of twenty to forty years.

Since his committment the Institution authorities state that he has had an unblemished disciplinary record, and has shown good vocational stability.

The sentencing Judge is deceased and no comment was received from the Court. However, the District Attorney's office of Philadelphia County stated that it was not opposed to the granting of clemency in this matter.

The Board believes that the determined effort of this young man in adjusting himself and attempting to acquire a trade and an education, while incarcerated, is indicative of his determination to live a law-abiding life. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert E. Hatry D-4979, No. 9990, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Robert E. Hatry, convicted of murder, in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on June 10, 1940 be commuted from life to 15 years, 2 months expiring on August 10, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He had a minor criminal record prior to his arrest for the crime of murder in the first degree. Since his incarceration the institution reports that he is recommended for a commutation because of favorable reports from all departments in the institution. He has passed courses in mechanical drawing; mathematics and carpentry.

The Courts of Common Pleas No. 2, No. 5 and No. 6, expressed their recommendation to the Board that applicant's plea for mercy be favorably considered. President judge, Honorable Edwin O. Lewis, of Common Pleas No. 2, recommends favorable action upon the application. Likewise, the Honorable Curtis Bok, president judge of Common Pleas No. 6 recommends to the Board that favorable consideration be given to the application. The Honorable Eugene V. Alessandroni, president judge of Common Pleas No. 5, states: "I am inclined to recommend favorable consideration by your Honorable Board of applicant's plea for clemency at this time."

The District Attorney's office of Philadelphia County stated that the applicant had rehabilitated himself and that it was not opposed to the granting of commutation at this time.

The Board, from all the facts in this case, believes that this was a crime of passion and that if released this man will no longer misconduct himself and that he will live a law-abiding life in the future. The Board, therefore, recommends that this sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John C. Johnson, E-3307, No. A-2528, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John C. Johnson, convicted of robbery and burglary in the Court of Oyer & Terminer and Quarter Sessions of Delaware County on October 1, 1952. Computed from June 13, 1952 be commuted from 4 years to 3 years, 2 months, 10 days expiring on August 23, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-seven years of age. He had a prior record of four arrests and no convictions. His present offense consisted of the holding up and robbing of a woman in Chester. He denied his guilt at the trial but was found guilty and sentenced to not less than four nor more than twenty-six years.

During applicants incarceration the Prison staff reports that he has established and maintained an unblemished disciplinary record and has demonstrated attempts at self-improvement. Reports from all departments are favorable.

The trial Judge, the Honorable Arthur P. Bretherick, states that there is some merit to this application. He adds: "Johnson is an intelligent, swaggering extrovert, but if he has 'learned his lesson' I would have no objection to his release." The District Attorney of Delaware County has no objection to the granting of clemency.

A careful review of the Institutional record for the past six years indicates that this applicant has made every effort to rehabilitate himself. He has enrolled in the English; shorthand and bookkeeping courses and has maintained fine progress for the past twenty-seven and one-half months. He is musically inclined and is a member of a fine institutional band.

The Board believes that this young man, with the efforts that he has been making to fit himself for a better place in Society, is deserving of every consideration and the Board further believes that he has been sufficiently punished and that he will no longer be involved in any criminal offenses. The Board, therefore, recommends that his minimum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ernest Jordan, C-2250, No. A-623, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Ernest Jordan, convicted of murder in the second degree, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 27, 1946. Computed from April 24, 1946 be commuted from 10 years to 9 years, 4 months expiring on August 24, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years old. He had practically no prior record except for one arrest and discharge. The present crime involved the stabbing of the victim following a quarrel involving several other persons. The applicant was sentenced to not less than ten nor more than twenty years.

The Institution reports that the applicant has made an excellent adjustment and displayed a respectful attitude toward authority and has been a very cooperative inmate. It is felt that he has done everything possible within a prison situation to prove himself.

The trail Judge, the Honorable Byron A. Milner, expressed the opinion that the applicant should serve his minimum term. However, the District Attorney's office stated that in view of his first conviction they were not opposed to the commutation.

The Board, in considering this application, believes that the steady and dependable character and relatively mature judgement, which he has displayed during his incarceration, indicates that he is determined to conduct himself properly if released. The applicant has served nine-tenths of his minimum sentence. The Board believes that he is fit for a return to society, and recommends, that his sentence be commuted.

Respectfully submitted,

(Sgd.) ROY E. FURMAN,
Lieutenant Governor.
(Sgd.) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd.) HERBERT B. COHEN,
Attorney General.
(Sgd.) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd.) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of John C. Koehler, 76469, No. A-3105, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John C. Koehler, convicted of bribery and conspiracy, in the Court of Quarter Sessions of Erie County on January 6, 1955 be commuted from 1 year to 9 months expiring on October 6, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-one years of age. He had one arrest and one conviction although he denies that he was guilty. The F. B. I. has no record. He was sentenced to pay a fine of Five Hundred Dollars and to imprisonment for from one to two years in the Allegheny Workhouse.

The present offense consists of payment of money for protection to the Erie Police Vice Squad. According to the parole report the sentencing Judge, the Honorable Samuel Y. Rossiter, neither oposes or recommends commutation. The District Attorney's office of Erie County did not oppose the granting of clemency in this matter for the reason that this applicant plead guilty.

The Board believes that this man has been sufficiently punished, and since the Warden of the Allegheny County Workhouse states that this applicant's conduct while incarcerated has been good, therefore recommends that his sentence be commuted when he has served nine months on October 6, 1955.

Respectfully submitted,

(Sgd.) ROY E. FURMAN,
Lieutenant Governor.
(Sgd.) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd.) HERBERT B. COHEN,
Attorney General.
(Sgd.) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd.) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Yonas Kostman, No. A-2929, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Yonas Kostman, convicted of robbery and assault, in the Court of Quarter Sessions of Delaware County on March 11, 1925, be pardoned.

This applicant is sixty-five years of age. He had a prior record involving seven arrests and four convictions. His present offense involving the robbery and asault in connection with the burglary of a store in 1925. The applicant and his accomplice were armed.

The trial Judge is deceased. The present Judge, the Honorable Henry G. Sweney, states that he has no objection to the granting of pardon. Likewise, the District Attorney's office of Delaware County, has no objection to the granting of this pardon.

The applicant, for the past twenty-five years, has been employed in the Restaurant and Hotel business and now owns and operates Hotel Drake in San Francisco. Letters are on file from various business places in San Francisco attesting to the high regard they hold for him as a customer, and the prompt payment of bills and other credit which they extended to him over the years.

The California Division of Adult Paroles reports to us that his conduct has been exemplary and that he has not become involved in any criminal offense. He has a well established credit and his reference is the Bank of America, San Francisco.

This applicant desires to obtain a pardon in order that he may avoid deportation to Poland. He has also received executive clemency from the Governor of New York for the offense which he commited in that State, and the Bureau of Immigration is giving him time to have the Commonwealth of Pennsylvania grant him clemency if the Commonwealth so desires. The Board believes that this man has certainly rehabilitated himself during the past few years and his standing among business men in San Francisco and his operation of Hotels and Restaurants for the past few years in that City has justified the confidence of his friends. We, therefore, recommend that a pardon be granted.

Respectfully submitted,

(Sgd.) ROY E. FURMAN,
Lieutenant Governor.
(Sgd.) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd.) HERBERT B. COHEN,
Attorney General.
(Sgd.) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd.) GEORGE M. LEADER.
Governor.

BOARD OF PADONS

In re application of James La John, 3026-E, No. A-3011, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James La John, convicted of bribery and conspiracy in the Court of Quarter Sessions of Erie County on January 6, 1955 be commuted from 1 year to 9 months expiring on October 6, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-nine years of age. He had four prior arrests and two convictions for gambling. His present crime was the payment of a sum of money for protection in the sale of lottery tickets, to the Vice Squad of the Erie City Police.

The trial Judge, the Honorable Burton R. Laub, advised the Parole Agent that he would leave the matter entirely in the hands of the Board of Pardons. The District Attorney of Erie County stated to the Board at the hearing that he was in favor of granting clemency to the applicant. At the present time the applicant is suffering from a severe heart condition. Dr. Petri, of the Erie County Jail, reports that his health is serious and he frequently has angina attacks at night. The Doctor is prescribing treatment and medicine to meet the serious condition of the applicant.

Dr. Roland E. Miller was also consulted relative to the condition of the applicant and states that he is suffering from angina pectoris, which causes severe and continuous chest pains.

The Board feels that this applicant has been sufficiently punished and, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Richard LeSage, No. A-3136, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Richard LeSage, convicted of Entering with intent to steal, larceny and receiving stolen goods in the Court of Quarter Sessions of Philadelphia County on November 26, 1935; and further convicted of Operating a Motor Vehicle While Intoxicated and Larceny of an Automobile in the Court of Quarter Sessions of Delaware County on November 19, 1937; and further convicted of Operating a Motor Vehicle without the Consent of the Owner in the Court of Quarter Sessions of Philadelphia County on February 23, 1938; and further convicted of Operating an Automobile without the Consent of the Owner, etc., in the Court of Quarter Sessions of Philadelphia County on September 7, 1938, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-nine years of age. He was sentenced in Delaware County in November 1937, and likewise sentenced in Philadelphia County in 1938. He

was released in 1939 on parole and since that time he has conducted himself in a very satisfactory manner and has not been involved in any criminal offenses.

The parole investigation reports that he is living with his wife in a satisfactory neighborhood which home he owns. He is employed by the Garden State Race Track of Camden, New Jersey, in charge of the parking facilities of that track, and also employed by the Atlantic City Race Track and the Delaware Park Track in the State of Delaware. The purpose of his request for pardon is based upon the State Law of New Jersey that requires all employes of race tracks to be free of any criminal records.

The district attorney of Delaware County stated that he would reply upon the action of the Board in this matter and the district attorney of Philadelphia County stated that he was not opposed to the granting of the commutation as his information lead him to believe that he had led a law-abiding life since 1939.

The Board recommends that a pardon be granted for the offenses committed by the applicant in both Delaware and Philadelphia Counties.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Clarence S. Lintner, Jr., No. A-3077, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Clarence S. Lintner, Jr., convicted of larceny in the Court of Oyer & Terminer of Allegheny County, on May 25, 1948, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty-seven years of age and had no previous record. This was his first offense. He plead guilty to the crime of larceny, and the Court promptly suspended the sentence, directing that he undergo treatment at the Veteran's Hospital.

The applicant has been on probation since May 25, 1948. He is a graduate of the University of Pittsburgh in Bacteriology and holds Honorable Discharges from the United States Army and Air Force.

The applicant desires a pardon in order to obtain a position as Bacteriologist under Civil Service. The District Attorney of Pittsburgh stated that he was not opposed to the granting of this pardon and felt that the applicant deserves and merits consideration.

Since his release on probation the applicant has conducted himself in a law-abiding manner and the Board believes that this offense was caused primarily by a mental condition of which, it is reported, he has been cured.

The Board believes that the advancement of this young man in the field of Bacteriology should not be hindered and, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John McLaughlin, D-7281, No. 7652, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John McLaughlin, convicted of burglary, larceny and conspiracy, in the Court of Quarter Sessions of Philadelphia County on April 26, 1949. Computed from July 28, 1952, be commuted from 4 years to 3 years, 1 month, expiring on August 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty years of age. He had a prior criminal record. The present offense was stealing from his sponsor while on parole.

At present this applicant is confined in the Philadelphia County Prison and the warden, Fred Kreuger, states that this applicant has an excellent conduct record and has participated in various constructive activities. At present he is doing a very good job as an inmate nurse in the Prison Hospital.

The trial judge is deceased. However, President Judge Raymond MacNeille of Common Pleas No. 3, states: "I feel that I cannot do other than to suggest that whether or not he is released would depend to some extent upon his conduct while in custody." The District Attorney's office stated that they were not opposed to the granting of clemency in this matter, believing that the applicant has sufficiently rehabilitated himself.

The Rev. Walter W. Ware, former prison chaplain, states to the Board: "I have always felt that when a man has made a definite effort toward rehabilitation, and has a good record at the prison, it is time then for him to have a chance on parole to prove himself."

The Board, after carefully considering this application, basing its recommendation on the quite evident effort of this applicant to rehabilitate and prove, under prison situation, his ability to adjust, recommends that his minimum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PADONS

In re application of John Francis McShane, No. A-3145, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members

of the Board of Pardons recommend that John Francis McShane, convicted of establishing a gambling place, in the Court of Quarter Sessions of Chester County, on December 5, 1951, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-one years of age. He had practically no prior criminal record, having been arrested for disorderly conduct, and gamling, and find. His present offense consisted of operating and maintaining a gambling place for which offense he was fined $500.00 and costs.

This offense occured in December 1951. Since that time he became associated with the Ajax Stables as a trainer of horses. He is now in New Jersey as a trainer. The New Jersey law requires that employes or persons connected with racing in that State be free from any criminal record.

The trial Judge, the Honorable Ernest Harvey, stated to the Board that he had no comment to make that would be of any assistance to the board in the determination of the application. The District Attorney's office opposed the granting of pardon. The Pennsylvania Board of Parole reviewed the case for the Board and discloses that since 1951 the applicant has conducted himself properly and has not been involved in any offenses. The Board believes that this applicant, who has made a serious attempt to rehabilitate himself in every way, will live a law-abiding life with honest employment, is entitled to every consideration.

The employer of the applicant, Jack N. Alexander, states that he has found the applicant to be honest and trustworthy and that he is most anxious to re-employ the applicant as a trainer as soon as his license can be reissued by the Racing Commission of New Jersey.

In view of all the above facts the Board recommends that a pardon be granted the applicant.

Respectfully submitted,

(Sgd) ROY E. FURMAN (Dissents),
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PADONS

In re application of Frederick Markovich, C-3364, No. A-3068, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Frederick Markovich, convicted of robbery, armed with an offensive weapon, in the Court of Oyer & Terminer and Quarter Sessions of Washington County on March 26, 1954, be commuted from 5 years to 1 year, 5 months, expiring on August 20, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-two years of age. He was sentenced for the crime of robbery, armed with an offensive weapon for from five to ten years. The applicant had no prior record and his present offense is that he struck a man and robbed him of his money.

The trial Judge, the Honorable George T. Cummins of Washington County, states: "It is my opinion now that the sentence I imposed on this defendant at the time he entered his plea of guilty was too severe, and that he should rceive some consideration from the Board of Pardons on his application for clemency." Likewise, the District Attorney of Washington County does not oppose the granting of this commutation and follows the action of Judge Cummins.

During his incarceration the applicant has conducted himself in a satisfactory manner and is employed in the Trailer Shop of the Institution. He is the sole support of his Mother and three sisters and it is believed from the records that he has learned a bitter lesson, for there is every likelihood that if released that he will conduct himself as a law-abiding citizen and will not again become involved in any criminal offense.

In view of all the foregoing facts the Board recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PADONS

In re application of John George Marshall, No. A-3075, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that John George Marshall, convicted of larceny, in the Court of Quarter Sessions of Allegheny County, on March 29, 1934, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He was sentenced for the crime of larceny on the twenty-ninth day of March 1934 and immediately placed on probation for a term of four years and ordered to make restitution of the amount stolen, to wit: Thirty-two dollars. The applicant had no prior criminal record.

The report of the Chief Probation Officer, J. C. Coulter of Allegheny County, states that this applicant reported regularly and has paid his Court costs in full and made restitution.

The trial Judge, the Honorable W. Heber Dietrich, is deceased. The District Attorney of Allegheny County stated that the applicant merited the consideration of the Board in his application for a pardon.

The applicant has a distinguished World War record and was wounded in action. He has been employed among various Industrial Plants in the Pittsburgh area and finds that his conviction has hindered him very much in finding suitable employment.

The Board believes that a pardon should be granted this applicant because of his law-abiding life since 1934; his distinguished service in the United States Army (being wounded in action and receives a disability pension); and so recommends.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PADONS

In re application of Harry Mayo, B-4447, No. 3910, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Harry Mayo, convicted of Murder, in the First Degree, in the Court of Oyer & Terminer of Clinton County, on February 14, 1935 be commuted from life to 20 years, 6 months, 10 days, expiring on August 24, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-seven years of age. His prior record consisted of four arrests and four convictions.

His present offense consisted of the killing of a Policeman in Lock Haven, Pennsylvania, about three o'clock in the morning at the back door of the Clinton Athletic Club, of that City. About five months the applicant was arrested in the City of Philadelphia. He plead not guilty but was convicted and was sentenced to life imprisonment. The applicant has always maintained his innocence and this position is concurred in by many people who know the circumstances of the entire tragedy.

The trial Judge is deceased. The President Judge, the Honorable Abraham I. Lipez states to the Board: "I feel now as I did then that the application should be granted." The District Attorney of Clinton County, according to the report of the Parole Agent, does not object to the granting of clemency. The District Attorney's office, however, did not communicate direct with the Board of Pardons.

The wife of the victim, Robert W. Probst, writes the Board that after all these years she still believes that there are many things which cast grave doubt on Mr. Mayo's guilt. She concludes her letter by stating: "I join, therefore, in Mr. Mayo's application to the end that his sentence may be commuted and that he may now take his place in society while he still has useful years of life ahead of him."

The Institution states that this applicant has maintained since 1951 an excellent Institutional record. The Parole Agent reports in an interview with the District Attorney of Clinton County, William Hollis, in May 1955, that he expressed the thought that he no longer opposed the commutation of sentence as he feels the applicant has served sufficient time and that he has made a proper adjustment.

There is also on file a letter from the family of the victim, signed by his brothers and sisters. They, too, believe that there is a grave doubt as to the guilt of the applicant.

The Board believes that this man has been sufficiently punished and also believes that he has been fully rehabilitated. The Board, therefore, recommends that his life sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Merlino, 76484, No. A-3063, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Merlino, convicted of bribery, in the Court of Quarter Sessions of Erie County on January 6, 1955, be commuted from 1 year to 9 months, expiring on October 6, 1955.

Our reasons for making this recommendations are as follows:

This applicant is fifty-three years of age. He had one arrest and one conviction of a sale of lottery tickets. His present crime consisted of payment of money to the Vice Squad of the Erie Police for protection of operating a poker game in his Snack Bar. The applicant was employed by the Erie Forge and Steel Company up to the date of his arrest but over the week-ends operated the Snack Bar where gambling was conducted.

Judge Burton R. Laub states to the parole agent that he thinks his sentence was justified but he will neither oppose nor recommend. The District Attorney's office is not opposed.

The applicant is now suffering high blood pressure which so far has been unresponsive to treatment. By virtue of this condition he is subject to a cerebral hemorrhage or stroke. Also the applicant is almost stone blind in one eye due to a hemorrhage. Lawrence P. Keenan, superintendent of the Allegheny County Workhouse, transmits to us the opinion of Dr. Kraft, prison physician. Dr. Arthur B. Calabrese, of Erie, Pennsylvania, also submits his diagnosis.

This applicant is one of the small-time gamblers involved in bribing the police force. He was a steady worker during the week and used this means of adding to his income by operating the Snack Bar and poker games.

The Board believes that this man has been sufficiently punished and therefore recommends that his minimum sentence be reduced to nine months, expiring on October 6, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor,
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward Michalski, 76509, No. A-3104, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Edward Michalski, convicted of bribery, in the Court of Quarter Sessions of Erie County on January 17, 1955, computed from January 6, 1955, be commuted from 9 months to 7 months, 10 days, expiring on August 16, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He had no prior record. He was sentenced to pay a fine of five hundred dollars and to imprisonment in the Allegheny County Workhouse for from nine months to two years.

This applicant sold baseball slips and paid protection to the Erie Police Vice Squad. Although this man was regularly employed by the General Electric Company, in order to increase his income he indulged in this activity. He was a small-time gambler.

The District Attorney of Erie County did not oppose the granting of clemency and indeed recommended it.

The sentencing judge, the Honorable Elmer L. Evans, stated to the parole agent that he neither opposed nor recommended. Honorable Julian Polaski, assemblyman from Erie County, likewise recommends the granting of clemency.

President Judge Elmer L. Evans states: "I have no recommendatoin to make except that if the Board recommends commutation in one case it may be constrained to take similar action in the others."

The Board, believing that this applicant has been sufficiently punished, recommends that this applicant's sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor,
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William F. Moore, No. A-3108, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William F. Moore, convicted of robbery, armed with an offensive weapon, in the Court of Oyer & Terminer of Allegheny County on April 15, 1937, be commuted from 20 years to 18 years, 4 months, expiring on August 15, 1955.

Our reasons for making this recommendations are as follows:

The applicant is forty-nine years of age and was sentenced for the offense of armed robbery to a term of not less than eight nor more than twenty years, effective April 15, 1937. The applicant was released on parole on April 30, 1945, at the expiration of his minimum sentence. Since his release he has been employed by the Pennsylvania Railroad as a brakeman but because of high blood pressure he must seek other work consistent with his physical condition.

The Board of Parole reports that since the applicant has been under their supervision he has made an excellent adjustment and that the Board of Parole does not oppose the granting of a commutation of his maximum sentence. The District Attorney of Allegheny County stated that he had no opposition to the commutation of the maximum sentence.

The president judge, the Honorable William H. McNaugher, states that he would rely upon the Board for their action. The Board believes that since this applicant has been in no further trouble, that he will not again offend against society and appears to be fully rehabilitated, recommends that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor,
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Louis E. Morgan, 74992, No. A-2775, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Louis E. Morgan, convicted of subornation of perjury: forgery of a written instrument, in the Court of Quarter Sessions of Allegheny County on January 28, 1954, be commuted from 3½ years to 1 year, 6 months, 12 days, expiring on August 10, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-eight years of age and had no prior record. He was sentenced for the crime of subornation of prejury and forgery of a written instrument. The applicant at the time of his arrest was a lieutenant of the Pittsburgh Police Department and was involved in the investigation of the Vice Squad of that particular Department in 1953. The applicant was sentenced to a term of not less than 3½ nor more than 7 years for these offenses.

The trial judge, the Honorable Walter H. Braham, did not give the Board the benelt of his comments. However, Judge Samuel A. Weiss, of Allegheny County, expressed hmiself very clearly in a letter to the Board as follows: "* * * this applicant's punishment should have been no more severe than any of the offenders who were actually responsible for much of the corruption that prevailed in this department. It is my candid opinion that his sentence was far out of proportion with his involvement." The District Attorney's office stated to the Board that it had no opinion to express either pro or con.

The applicant is likewise sffering from coronary thrombosis and during his present incarceration he has had several attacks. His physical condition is attested to by the physician attached to the Allegheny County Workhouse, Dr. Kraft, and his associate, Dr. Clateman.

The Board feels that this applicant's sentence should be commuted, believing that he has been sufficiently punished and believing also that he will not in the future become involved in any criminal offense of any type. The applicant is a man of standing in the Community and testimony at the trial by his many friends attested to his character and integrity. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN—Dissents,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Willie Paddlefoot, D-9967, No. 3072, June Session, 1955.

To His Excellency the Governor of the Commonwealth of of Pennsylvania:

Sir: The above application having been heard, upon due notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Willie Paddlefoot, convicted of murder, in the second degree in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on October 7, 1947, computed from June 23, 1947 to be commuted from 10 years to 8 years, 8 months expiring on August 23, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-three years of age. He had two arrests and no convictions covering minor offenses such as vagrancy. His present offense consisted of assaulting a young woman in the Green Leaf Social Club. In the course of the argument the applicant stabbed her, the wounds from which she died. He was sentenced for from ten to twenty years for murder in the second degree.

The Institutional staff states that his Institutional conduct record is considered very good, and that vocationally, he has demonstrated stability. He is also given credit for having a very good educational report.

The trial Judge, the Honorable Henry G. Sweeney, states: "I would have no objection to this commutation if his record at the penitntiary has been good and if they feel that he will make a good adjustment." The District Attorney of Delaware County stated that he had no objection to the granting of clemency.

The Board believes that this young man has learned a lesson so that if released he will conduct himself in a law-abiding manner and will not become involved in any further criminal offense. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN(Dissents)
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Manning Pinckney, E-1786, No. 3074, June Session, 1955.

To His Excellency the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Manning Pinckney, convicted of robbery, armed with an offensive weapon in the Court of Quarter Sessions of Philadelphia County on July 13, 1950, computed from June 28, 1950 be commuted from 10 years to 5 years, 2 months expiring on August 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-four years of age. He had no prior criminal record. He was sentenced for the crime of robbery, armed with an offensive weapon, to a term of from ten to twenty years.

Since the applicant's incarcernation the Institution reports that his disciplinary record is good and his Institutional rating is very good. He has interested himself in improving his education.

The trial judge is retired and the present judge, Honorable Joseph L. Kun, relies upon the Board for its decision. The District Attorney's representative at the hearing before the Board on this application stated he was not opposed and recommended that commutation be granted.

This young man was only eighteen years of age when he committed this offense and his efforts at rehabilitation which he has made while incarcerated makes the Board believe that if released he will conduct himself as a law-abiding citizen. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor

BOARD OF PARDONS

In re application of Sara Pinder, 3561-C, No. 9329, June Session, 1955.

To His Excellency the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Sara Pinder, convicted of murder, in the second degree in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on June 18, 1947, be commuted from 12 years to 8 years, 2 months expiring on August 18, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 15, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

in re application of Raymond Plechner, E-3076, No. A-2702, June Session, 1955.

To His Excellency the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Raymond Plechner, convicted of robbery, etc. in the Court of Quarter Sessions of Philadelphia County on June 26, 1952, computed from March 12, 1952 be commuted from 6 years to 3 years, 5 months, 10 days expiring on August 22, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty years of age. He had practically no prior criminal record having been arrested only for minor offenses, no convictions.

The present offense arose out of his robbing a Taxi Cab. He was sentenced from six to twelve years. The Institution that the applicant has established a very good Institutional record and has made progress in his study involving refrigeration.

The trial judge, the Honorable Eugene V. Alessandroni, advises the Board that the application is a matter for their discretion. The District Attorney's office was opposed to the granting of clemency as of October 1954. However, this opinion was reversed and the District Attorney's office, as of June 1955, is not now opposed to the granting of clemency in view of the excellent Institutional record that the applicant has made.

The Board, therefore, believing that this young man will no longer be a menace to society and will live a law-abiding life in the future, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Rotunda 3027-E, No. A-3119, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Rotunda, convicted of bribery in the Court of Quarter Session of Erie County on January 6, 1955 be commuted from 1 year to 9 months expiring on October 6, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age. He had one prior arrest but no convictions. His present offense consisted of payment of money for protection of the operation of the sale of lottery tickets and the running of a card game, to the Erie Police Vice Squad. At the same time of his arrest the applicant operated a Cigar Store and a News Room. He was sentenced to pay a fine of Five Hundred Dollars and to imprisonment in the Allegheny County Workhouse for from one to two years.

The Parole Agent reports that the sentencing Judge, The Honorable S. Y. Rossiter, advised that he would neither oppose or recommend commutation. The District Attorney of Erie County has stated that he would not oppose commutation of this sentence, being practically neutral in the matter.

At present the applicant is employed in cleaning records and painting office equipment in the Court House at Erie County and the Prothonotary of the Court states that his conduct has been irreproachable and that the County has benefited by his services. The Board was informed that at the present time his wife is seriously ill.

The Board believes that this man has been sufficiently punished and recommends that his minimum sentence be commuted to nine months, expiring October 6, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James P. Salamone, 76485, No. A-3137, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James P. Salamone, convicted of bribery and conspiracy in the Court of Quarter Sessions of Erie County on January 6, 1955 be commuted from 1½ years to 1 year expiring on January 6, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty-nine years of age. He had seven prior arrests and two convictions for minor charges involving illegal driving; violation of the Liquor Laws and carrying concealed deadly weapons. The present offense consists of payment of the sum of Four Hundred Dollars each month for protection for operating a gambling club, the Beaver Club, to the Erie Police Vice Squad. He was sentenced to pay a fine of Five Hundred Dollars and to imprisonment in the Allegheny County Workhouse for from one and one-half to three years.

During the applicant's incarceration he has conducted himself in a satisfactory manner and is one of the Hospital attendants at the Institution. The Warden of the Allegheny County Workhouse states that any consideration that he Board of Pardons is inclined to grant will meet with the full approval of the authorities of this Institution.

The sentencing Judge, the Honorable Burton R. Laub, stated to the Parole Agent that the sentence was justified but he did not oppose or recommend the granting of clemency.

The District Attorney of Erie County stated he felt the sentence was a severe one although he believed that this appplicant should serve a bit longer in the Allegheny County Workhouse. The Board believes that this man has been sufficiently punished and recommends that his minimum sentence be reduced to one year, expiring on January 6, 1956.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James E. Semple, C-3363, No. A-3069, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James E. Semple, convicted of robbery, armed with an offensive weapon in the Court of Oyer & Terminer of Washington County on March 26, 1954 be commuted from 5 years to 1 year, 5 months expiring on August 20, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-six years of age. He was sentenced for from five to ten years in Washington County for the crime of robbery, armed with an offensive weapon. This applicant was involved with one Frederick Markovich in the hold-up and robbery of a victim.

The Trial Judge, the Honorable George T. Cummins states: "It is my opinion now that the sentence I imposed on this defendant at the time he entered his plea of guilty was too severe, and that he should receive some consideration from the Board of Pardons on his application for clemency." The District Attorney of Washington County does not oppose the granting of this commutation, and follows the action of the sentencing Judge.

During his incarceration the applicant has made attempts to improve himself and he has been a satisfactory prisoner.

The Board believes that this applicant has been taught a lesson and has rehabilitated himself sufficiently to permit his release and to regain a place in society. This Board also believes that this young man will not again be guilty of any criminal offense and that the mercy of the Commonwealth, as it is recommended, will help him very much in regaining his confidence and a place in society. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Hizzie Stevenson, D-9881, No. A-3089, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Hizzie Stevenson, convicted of murder, in the second degree in the Court of Oyer & Terminer of Philadelphia County on September 8, 1947, computed from June 17, 1947 be commuted from 10 years to 8 years, 2 months, 10 days expiring on August 27, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-one years of age. He had a prior record, a conviction for assault and battery. His present crime was the beating of his wife so severely that she died.

The Institution reports that he has maintained an unblemished disciplinary record and currently works in a position of trust in the Electric Light Plant of the Institution.

The Trial Judge is deceased and the present Court has not expressed an opinion. The District Attorney is not opposed to the granting of clemency in this matter and so stated both before the Board and in writing.

The Board is of the opinion that this was a crime of passion and that the defendant will not become involved in any further criminal activities. His behavior in the Institution lends conviction to the belief that he will adjust hmself properly in society. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN—Dissents,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert Charles Stewart, 74484, No. A-3085, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Robert Charles Stewart, convicted of false pretense and obtaining goods, in the Court of Quarter Sessions of Erie County, on September 8, 1953, be commuted from 3 years to 2 years, 10 days expiring on August 29, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-eight years of age and had a record of twenty-five arrests and four convictions, covering the passing of worthless checks defrauding Hotel and Inn keepers.

The Allegheny County Workhouse reports that he has been a trustworthy and reliable inmate and the Chaplain of that Institution, Rev. John J. Hugo, believes that the applicant is now a God-fearing man anxious to set straight whatever wrong he has done in the past and desirous of setting his life in order upon his release from Prison.

The trial Judge, Burton R. Laub, advises the Parole Agent that he will not oppose commutation. The District Attorney's office states that his record in Prison is excellent and that he believes having served approximately two years he has been sufficiently punished for his offense. His primary trouble is over indulgence in alcoholic beverages. His present trouble is the crime of giving a store a worthless check for purchases made there.

The Board believes that this man has learned at last that a continuance of his past life will lead to jail sentence after jail sentence. The Board also believes that he has adjusted his thinking and living and that if released he will conduct himself in the future as a law-abiding citizen. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN—Dissents,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.

(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

In re application of Joseph Taylor, C-2197, No. A-1479, June Session, 1955.

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Taylor, convicted of murder, in the Second Degree, in the Court of Oyer and Terminer of Allegheny County, May 9, 1951, computed from June 28, 1950, be commuted from 6 years to 5 years, 2 months expiring on August 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-one years of age. He was sentenced for the crime of murder in the second degree for from 6 to 12 years in the Western State Penitentiary to No. 97 September Term 1950. The applicant's prior criminal record was quite minor, having been arrested, with no convictions, for the offense of loitering and assault and battery. The present crime for which he now seeks commutation, arose in a fight between brothers during which the applicant drew a knife and stabbed the victim.

The Board of Trustees of the Western State Penitentiary states that this applicant has an excellent prison record and has made a satisfactory progress in the face of many emotional obstacles following the riot trials in 1953. The report is that he is a steady, dependable and cooperative inmate and has a sense of personal responsibility. Since his incarceration his wife died and he is survived by a nine year old daughter.

The sentencing Judge, the Honorable Henry Ellenbogen, according to the Parole report, is relying on the Board for its action. The District Attorney of Allegheny County, however, is opposed. The Board of Parole advises that this man made a fine adjustment during his prison sentence, of which he has served approximately 85% of the minimum, indicating that the applicant is rehabilitated and ready to take his place in society. The Board, in view of all of these facts, recommends that the minimum sentence of this applicant be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert R. Turner, E-4796, No. A-3091, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Robert R. Turner, convicted of rape, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia Conty, on September 17, 1954. Computed from July 30, 1954, be commuted from 1½ to 5 years to 1 year, 1 month, expiring on August 30, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-five years of age. He had no prior record. He was sentenced for the crime of assault and battery; aggravated assault and battery to ravish; rape and corrupting the morals of a minor, by the Court of Oyer and Terminer and Quarter Sessions for from one and one-half to five years. The crime involved intercourse with his sixteen year old step-daughter.

During his incarceration the Institution reports that this man has made a consistently satisfactory adjustment. He has proved himself to be dependable and willing to accept responsibility.

The trial Judge, the Honorable Peter F. Hagan, believes that his minimum sentence should be served. The District Attorney's office, however, is not opposed to the granting of clemency in this matter.

The Board has considered the factors in this matter and is recommending clemency based on the evident effort of rehabilitation which this applicant has made during his incarceration in the Eastern State Penitentiary. The inmate does not possess criminal tendencies and it is believed that upon his release he will conduct himself as a law-abiding citizen and not become involved in offenses of this nature in the future. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Oscar Vanderpool, 200-E, No. A-3064, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Oscar Vanderpool, convicted of statutory rape; possessing obscene literature; contributing to the delinquency of a child, in the Court of Quarter Sessions of Jefferson County on July 6, 1953, be communted from 3 years to 2 years, 1 month, 20 days, expiring on August 26, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-four years of age. He had no prior record, and his present offense was intercourse with a fifteen years old girl; possession of obscene literature and contributing to the delinquency of a minor.

The applicant, during his incarceration, conducted himself in a very satisfactory manner. He was released on parole July 6, 1954, and he desires commutation of maximum sentence which expires in July 1956 for the reason that he wishes to go to Virginia with his wife, where he expects to reside among friends and relatives and does not desire to be under the restraint of parole supervision. The Board of Parole reports that since his release he has conducted himself for the past six months in a very satisfactory manner.

UNIVERSITY OF ILLINOIS
LIBRARY

This applicant is now suffering from a heart condition and needs a change of residence in order to help him. His maximum sentence will expire in one year and the Board feels that this can be taken into consideration in view of his conduct and rehabilitation.

The sentencing judge, the Honorable Robert M. Morris, states that he is satisfied that his application should be favorably considered by the Board. The office of the District Attorney of Jefferson County advises us that they are not opposing this application and that this man has only been in difficulty this one time and that he deserves another opportunity. The Board, therefore, recommends that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re appliation of Reginald Wright, D-4980, So. 8961, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Reginald Wright, convicted of murder, in the first degree, in the Court of Oyer & Terminer of Philadelphia County on June 11, 1940, be commuted from life to 15 years, 2 months, expiring on August 11, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty years of age. He had no prior record. He was sentenced to life imprisonment for the crime of murder in the first degree, by reason of the killing of his wife.

During the period that he has been in custody the institution reports that the inmate has established and maintained a good institutional adjustment record and constant improvement in attitude. All reports are favorable.

The sentencing judge, the Honorable Curtis Bok and the Honorable Joseph Sloane did not communicate with the Board as to the merits of the application. The District Attorney's office stated that they did not oppose the granting of clemency for this man.

The former employer, Charles J. Linton, wrote favorably, the Restaurant Guild, Local No. 138, recommends the granting of clemency and assures the Board that they will stand back of him and assured him of a position upon release.

This offense was a crime of passion and resulted from a discussion between the applicant and his wife regarding her abnormal tendencies.

The Board believes that this applicant will never again be guilty of a criminal offense and will adjust himself to Society. The assurances of former employer and of his Union officials will help to stabilize his entry into society. The Board, therefore, recommends that his minimum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Mike Zervos, No. 2654, June Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Mike Zervos, convicted of murder, in the first degree, in the Court of Oyer and Terminer of Westmoreland County on July 24, 1930, be commuted from life to 25 years, 1 month, expiring on August 24, 1955.

Our reasons for making this recommendation are as follows:

This applicant is sixty-eight years of age and had two previous arrests for violation of liquor and narcotics laws. The present crime, for which he was sentenced to life imprisonment for murder in the first degree, is as follows: In 1928 a dead man was found along the road badly beaten. Later, the applicant was arrested and convicted of this offense. He plead not guilty. In 1951 his sentence was commuted by the Board of Pardons to a term of twenty-one years, eleven months and he was released in June 1952. For the past four years the applicant has been under the supervision of the Board of Parole and according to the report has conducted himself in a law-abiding manner.

The applicant has been employed since his release at the Liberty Shoe Shine Parlor and Hat Cleaning Shop of New Kensington, Pa., and the City News Company of New Kensington, where his work is reported satisfactory and his conduct excellent. The applicant also has the warm reommendation of the Public Safety Director of the City of New Kensington and the Mayor of the City, as well as other persons, residents of New Kensington, Pa.

The District Attorney of Westmoreland County states that any action taken by the Board will be satisfactory to his office. The sentencing judge is now deceased and the President Judge, the Honorable Richard D. Laird, has not responded to our inquiry as to the merits of this application.

This applicant is requesting commutation of his maximum sentence for the purpose of entering into business and the Board therefore recommends that the sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Larry D. Abbott, E-4350, No. A-3232, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members

of the Board of Pardons recommend that the minimum sentence of Larry D. Abbott, convicted of burglary and larceny, in the Court of Oyer and Terminer of Delaware County on March 1, 1954, computed from February 23, 1954, be commuted from 2½ years to 1 year, 8 months, expiring on October 23, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-one years of age and was sentenced for the crime of burglary, larceny by the Oyer and Terminer Court of Delaware County for from 2½ years to 10 years, effective February 23, 1954.

The applicant together with an accomplice broke into a lunch room in Media and they were caught while burglarizing the premises.

The sentencing judge, the Honorable Arthur P. Bretherick stated "I have no objection to your granting the application of this applicant providing the board is satisfied that he is not likely to cause any future trouble." The district attorney stated before the board that he recommended the granting of the application and he would not oppose it and believed the applicant was penitent. The prison authorities have indicated that he has a very good institutional rating and seems to have acquired an ability to inhibit anti-social impulses.

The board, therefore, recommends that this clemency be extended to the applicant and his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Dominic Adiutori, No. 3212, September Session, 1955.

To His Excellency the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Dominc Adiutori, convicted of bribery in the Court of Quarter Sessions Erie County on December 8, 1954, computed from January 10, 1955 be commuted from 1½ years to 11 months, 5 days expiring on December 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-three years of age. His present crime involved the bribing of a police officer in Erie, Pennsylvania, and he was sentenced by the Quarter Sessions of Erie County for from 1½ to 3 years in the Allegheny County Workhouse.

The purpose of this bribe was to protect the applicant in the pursuit of his gambling activities. The applicant's offense appeared to be that he failed to pay a city tax on the removal of pin-ball machines to other locations and was protected in this evasion of the law. The applicant was connected with the Erie Coin Sales Company. The workhouse reports that his conduct has been satisfactory in every respect.

The trial judge, the Honorable Samuel Y. Rossiter, stated that he would rely on the Board as to their best judgment in granting this application. The district attorney stated that the applicant was not one of the big shots in the gambling ring but he was not opposed to a reduction of his minimum sentence. The Board of Pardons believe that this applicant has been sufficiently punished and, therefore, recommends that his minimum sentence be commuted at the expiration of eleven months, five days, effective December 15, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved.

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Louis B. Bicoff, 6162-D, No. 6280, September Session, 1955.

To His Excellency the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Louis B Bicoff, convicted of robbery in the Courts of Oyer and Terminer and Quarter Sessions of Philadelphia County on December 17, 1936, be commuted from a maximum sentence of 20 years on Bill No. 372 to a new maximum sentence of 9 years 10 months expiring on October 24, 1955; and commuted from a maximum sentence of 20 years on Bill No. 373 to a new maximum sentence of 1 day expiring on October 25, 1955; and commuted from a maximum sentence of 10 years on Bill No. 374 to a new maximum sentence of 1 day expiring on October 26, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved or further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 18, 1965.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved.

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Edward Lee Bowen, 9738-C, No. 7442, September Session, 1955

To His Excellency the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommended that the maximum sentence of Edward Lee Bowen, convicted of attempted burglary and burglary in the Court of Quarter Sessions of Washington County on March 8, 1940, computed from February 24, 1940 be commuted from 27 years to 15 years, 8 months expiring on October 24, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved or further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 24, 1967.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved.

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Nick Boykas, B 6669, No. 8252, September Session, 1955.

To His Excellency the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Nick Boykas, convicted of murder in the first degree in the Court of Oyer and Terminer of Washington County on April 12, 1939, computed from May 29, 1938 be commuted from life imprisonment to 17 years, 5 months, expiring on October 29, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-seven years of age and was sentenced for the crime of murder in the first degree by the Oyer and Terminer Court of Washington County to life imprisonment. The crime arose from a dispute between the applicant and his uncle wherein the applicant shot and killed him. The applicant, a young Greek boy unable to speak English, was employed by his uncle at low wages and at long hours. The dispute arose when the applicant went to Pittsburgh on Sunday to visit a friend.

The trial judge is deceased and a parole report states that President Judge Roy I. Carson has no comments to make. The present district attorney of Washington County says: "* * * It is my personal opinion based on inquiry recently made, that I do not oppose the application to commute the sentence and would recommend serious favorable consideration. * * *"

The penitentiary authorities report at this time that this man has an excellent institutional record and that further incarceration would not tend to make him more stable. The Board is informed that an excellent parole plan has been set up for this man and that there is every likelihod that he will be given supervision of the best type. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved.

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Joseph Charles Burns, D-3446, No. 7702, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Charles Burns, convicted of murder in the first degree, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 29, 1938 be commuted from life imprisonment to 17 years 1 month expiring on October 29, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-four years of age and was sentenced by the Oyer & Terminer Court of Philadelphia County for the crime of murder in the first degree sentenced to life imprisonment effective September 29, 1938.

The applicant together with an accomplice, committed an armed robbery in which the storekeeper was killed. The applicant had one prior arrest as a juvenile. Since his imprisonment the authorities report that he has earned an excellent conduct record and has held a job of trust and responsibility in the institution since 1948. He has made a remarkable record in sending home from his earnings in the institution approximately $3,000.00.

The trial judge, the Honorable Harry McDevitt is deceased. The district attorney's office is not in favor of clemency at this time. The Board of Pardons believes that this applicant has demonstrated his rehabilitation by his exceptional developments and his deep sense of responsibility by his large remittances to his home.

The board feels that he has matured in every way and that if released he will not engage in any future criminal activities and will prove himself to be a worthwhile member of society, and therefore recommends that clemency be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George M. Ceresini, Jr., No. A-3216, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of George M. Ceresini, Jr., convicted of burglary in the Court of Oyer and Terminer of Dauphin County on February 28, 1955, computed from February 11, 1955 be commuted from 1 year to 8 months 20 days expiring on October 31, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age, and was sentenced by the Court of Oyer and Terminer of Dauphin County for from one to two years effective February 11, 1955, for the offense of robbery and receiving stolen goods. The applicant is confined in the Dauhin County Prison.

The sentencing judge, the Honorable Walter Sohn, stated that it was his intention to reduce the sentence during term time, but the press of court business caused him to overlook this matter, and so he stated: "If the Pardon Board can see fit to extend clemency to this defendent, I will greatly appreciate it." The District Attorney of Dauphin County stated he did not oppose the commutation of the sentence.

Since this applicant has been incarcerated, he has been adjusting satisfactorily, and is a good worker.

The board feels that this applicant has been sufficiently punished, and, therefore, recommends that his sentence be reduced.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ray Czulewicz, No. A-3237, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Ray Czulewicz, convicted of bribery, in the Court of Quarter Sessions of Erie County on January 6, 1955, computed from January 25, 1955 be commuted from 1 year 3 months to 10 months 20 days expiring on December 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age and was sentenced for the crime of bribery by the Court of Quarter Sessions of Erie County for from 1 year 3 months to 2 years 6 months, to the Allegheny County Prison. The applicant had been involved on two prior occasions for violation of the gambling ordinances of Erie for which he was fined. The applicant operated a newspaper store in Erie and sold numbers and paid sums of money to the police force of Erie in order to protect himself in this business.

The Allegheny County Workhouse reports that this applicant has conducted himself satisfactorily. There is no report from the trial judge. The district attorney stated he was opposed.

The applicant received an honorable discharge from the United States Army at the conclusion of World War II.

The Board believs that this young man has been sufficiently punished and recommends that his sentence be commuted to 10 months 5 days from the date of his commitment, to wit: December 15, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Alex Delpercio, 4613-D, No. 7827, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Alex Delpercio, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer of Allegheny County on September 22, 1939 be commuted from 18 years to 16 years, 1 month expiring on October 22, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 22, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Dembrowski, Matthew J., 9126-C, No. 6458, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Matthew J. Dembrokski, convicted of burglary and larceny, in the Court of Quarter Sessions of Wash-

ington County on March 29, 1940, computed from March 17, 1940, be commuted from 20 years to 15 years 7 months expiring on October 17, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence would remain on parole until March 17, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Peter Dowley, No. A-3154, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Peter Dowley, convicted of Voluntary Manslaughter, in the Court of Oyer and Terminer of Sullivan County, on September 18, 1914, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is sixty-five years of age and was convicted for the crime of voluntary manslaughter by the Court of Oyer and Terminer of Sullivan County and sentenced for from 9 to 12 years in the Eastern State Penitentiary. His crime consisted of striking a man on the head with a stone and the victim died. There was a fight between the applicant and the victim.

The applicant was released on parole on the 17th of September, 1923. Since his release he has been employed as a coal miner by the Glen Alden Coal Company. He was released from parole supervision in 1936.

This applicant is a well-behaved individual and has never violated the law since his release. He is desirous of becoming a United States Citizen and feels that this offense prevents his being naturalized. Likewise, he would like to finish his days feeling that he has received the mercy of the Commonwealth.

The Board, in view of the above facts, recommends that a pardon be granted to this applicant.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Stephen D'Zurko, 1677-D, No. 6564, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Stephen D'Zurko, convicted of robbery in the Court of Oyer & Terminer of Allegheny County on December 15, 1938. Computed from November 16, 1938 be commuted from 20 years to 16 years, 11 months expiring on October 16, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 16, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ralph Emerson, 4781-A, No. 4119, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentences of Ralph Emerson, convicted of burglary in the Court of Quarter Sessions of Chester County on August 31, 1926 be commuted from a maximum term of 10 years to a new maximum term of 9 years 2 days, expiring on October 31, 1955 on Bill No. 3; and commuted from a maximum term of 10 years to a new maximum term of 1 day, expiring on November 1, 1955 on Bill No. 4 (the maximum having expired on Bills No. 1 and No. 2).

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until August 31, 1966.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Esher, 7090-D, No. A-3156, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Esher, convicted of robbery, armed with an offensive weapon in the Court of Oyer & Terminer and Quarter Sessions of Philadelphia County on April 17, 1942. Computed from March 29, 1942 be commuted from 20 years to 13 years, 7 months expiring on October 29, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 29, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William L. Evans, 6122-D, No. 8054, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William L. Evans, convicted of murder, in the second degree in the Court of Oyer & Terminer and Quarter Sessions of Franklin County on August 2, 1939. Computed from August 9, 1939 be commuted from 20 years to 16 years, 2 months expiring on October 9, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until August 9, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Francis Ewing, 7559-C, No. 6797, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph Francis Ewing, convicted of murder, in the second degree in the Court of Oyer & Terminer and Quarter Sessions of Philadelphia County on December 17, 1935—computed from May 13, 1937 be commuted from 20 years to 18 years, 5 months expiring on October 13, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until May 13, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Thomas W. Flatley, 76529, No. A-3208, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Thomas W. Flatley, convicted of conspiracy and violating oath of office in the Court of Quarter Sessions of Erie County, on January 6, 1955, computed from January 10, 1955, be commuted from 1½ year to 11 months, 5 days, expiring on December 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is sixty-five years of age and had no prior criminal record. The applicant was sentenced for conspiracy and violation of his oath of office. He was sentenced by the Court of Quarter Sessions of Erie County for from 1½ to 3 years in the Allegheny County Workhouse, effective January 10, 1955. At the time of the applicant's conviction and sentence, he was Mayor of the City of Erie and he, together with two other conspirators put into operation the scheme of collecting protection money from the gambling fraternity of Erie. Until this conviction, the applicant had an unblemished record and was held in high esteem. His position in the Community was such that he had been elected to the Board of County Commissioners of Erie County on two occasions and then to the office of Mayor of that City. The applicant has been severely punished. The Board realizes that a man of his position in the community is severely punished by even one day in jail. The fact that he violated his oath of office will abide with him until his death. He will realize that every citizen of Erie knows that he has been found guilty and served a jail sentence for this offense. The Board feels that further imprisonment will serve no further good purpose. He has been punished and his punishment will continue long after he is released from the Workhouse.

The trial judge, the Honorable Elmer L. Evans, stated to the parole agent that he would rely upon the Board, and the District Attorney stated that he would make no recommendation pro or con with respect to a commutation. The District Attorney stated that as a friend he would urge immediate release, but raised the question as to his debt to society. However, the District Attorney did believe some of the applicant's sentence should be commuted. The applicant is suffering from a chronic gallbladder condition. Many citizens of Erie have signed petitions praying for his release. The Board, therefore, recommends his minimum sentence be commuted at the expiration of 11 months, five days.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Floyd, D-2500, No. 6920, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Floyd, convicted of murder in the first degree, in the Court of Oyer and Terminer and Quarter Sessions, of Philadelphia County, on October 6, 1937, computed from December 31, 1936, be commuted from life imprisonment to 18 years, 10 months, expiring on October 31, 1955.

Our reasons for making this recommendation are as follows:

The applicant is forty-nine years old, and was sentenced for the offense of murder in the first degree to a term of life imprisonment effective Decmbr 31, 1936. He was sentenced by the Court of Oyer and Terminer, Philadelphia County. The crime arose over a girl in a street quarrel.

Since his incarceration, the applicant has established and maintained an unblemished disciplinary record, and has made a successful attempt of self-improvement and rehabilitation. He has demonstrated his stability by his large savings account.

The sentencing Judge, Honorable James C. Crumlish, recommends favorable consideration of this application. Likewise, the District Attorney of Philadelphia County, recommends the release, feeling that this applicant has an excellent chance for establishing himself in society. The board, threfore, recommends commutation of his life sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry Foltz, 2069-C, No. 2996, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harry Foltz, convicted of murder, in the First Degree, in the Court of Oyer and Terminer, of Beaver County, on June 16, 1930, be commuted from life to 25 years, 4 months, expiring on October 16, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.

(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE GLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Fordyce, 578-D, No. 5450, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Fordyce, convicted of larceny, fel. breaking and entry and larceny; and larceny in the Court of Quarter Sessions of Washington County on July 2, 1937, computed from June 23, 1937 be commuted from 22 years to 18 years, 6 months, expiring on October 23, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 23, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B .COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Forline, 3511-D, No. 7699, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Frank Forline, convicted of assault, being armed with an offensive weapon with intent to rob, etc. in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 29, 1941, computed from April 16, 1941 be commuted from 20 years to 14 years, 6 months expiring on October 16, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 16, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Robert Franks, 7572-C, No. 5657, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentenec of Robert Franks, convicted of being armed in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 26, 1939, computed from May 6, 1939, be commuted from 20 years to 16 years, 5 months, expiring on October 6, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until May 6, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of William Frazier, D 9558, No. A 1675, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Frazier, convicted of burglary, larceny and receiving stolen goods in the Court of Quarter Sessions of Philadelphia County on March 31, 1947, computed from March 10, 1947 be commuted from 15 years to 8 years, 7 months, 20 days, expiring on October 30, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-seven years old and was sentenced for the offense of burglary for a term of not less than 15 years, nor more than 30 years, on three separate indictments, effective March 10, 1947.

During the applicant's incarceration, he has maintained an unblemished discliplinary record, and demonstrated his attempt of self-improvement by his application to work in the printing shops, and the courses of study that he has undertaken. The prison authorities speak of evidence of his self-improvement. The prior record of this man was confined largely to minor offenses, and the crime for which he was found guilty was a series of buglaries in Philadelphia. It is to be noted that many of his offenses were committed while he was a juvenile. The prison authorities report that he is a mature individual with a low crime threshold. The sentencing judge is deceased, and the present District Attorney of Philadelphia was not in favor of commutation.

The Board, however, believes that this man is ready for release to society, and that he will conduct himself in a satisfactory manner, and that he will no longer violate the law. The Board is advised that he has a satisfactory parole plan, and an opportunity for employment that will give him an adequate income. The Board, therefore, recommends that his minimum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ginsburg, Samuel, 1387-A, No. 7180, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Samuel Ginsburg, convicted of robbery, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on October 1, 1938, computed from December 8, 1941, be commuted from 20 years to 13 years, 10 months, expiring on October 8, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 8, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted:

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Herbert Ray Hollander, 6998-D, No. 8300. September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Herbert Ray Hollander, convicted of burglary and possession of burglar tools, in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on February 21, 1941, computed from October 22, 1940, be commuted from 22 years to 15 years, expiring on October 22, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 22, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted:

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of James Holmes, E-2710, No. A-3162, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Holmes, convicted of robbery, armed

with an offensive weapon, in the Court of Quarter Sessions of Philadelphia County on December 21, 1951, computed from September 28, 1951, be commuted from 6 years to 4 years, 1 month, expiring on October 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age and was sentenced for the crime of armed robbery by the Oyer and Terminer Court of Philadelphia County and was sentenced for from 6 to 12 years effective September 28, 1951.

During his incarceration this applicant has maintained an unblemished diciplinary record and has occupied a position of trust in the penitentiary. He has made attempts to improve himself and is a rational and mature person. His crime consisted of a holdup on the streets of Philadelphia armed with a revolver.

The trial judge, the Honorable Joseph L. Kun relies upon the Board as to their consideration of this application. The district attorney's office stated that they were not opposed to the granting of clemency.

The Board recommends that this applicant receive the clemency of the State believing that he has been sufficiently punished and has learned a salutary lesson, having served more than 2/3 of his minimum sentence.

Respectfully submitted:

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Robert P. Hoopes, No. A-3139, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Robert P. Hoopes, convicted of assault with intent to maim, in the Court of Quarter Sessions of Delaware County, on March 21, 1947, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age and was sentenced for the crime of assault with intent to maim by the Quarter Sessions Court of Delaware County on March 21, 1947, for from 6 months to 3 years in the Delaware County Prison.

The offense arose from an altercation with the police officer who stopped the automobile in which the applicant and his accomplice were riding. During the altercation the policeman was assaulted.

The applicant served his 6 months prison sentence and was released from parole in March 1950. The applicant had a most distinguished war record and is now receiving disability pension arising from wounds received in battle. He is employed as a foreman of construction for the concern of Arter Brothers, Lima, Pa.

The applicant is desirous of entering the construction business on his own responsibility, but the fact of his sentence and imprisonment prevents him from securing a surety bond.

The Board believes that this man, who has not become involved in any criminal offense since 1950, and who has shown by his conduct that he is determined to live a law-abiding life, and further that his ambition to become a contractor is a worthwhile goal, recommends that the mercy of the Commonwealth be extended to him and a pardon be granted.

Respectfully submitted:

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Jeff Howell, D-9725, No. A-2036, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Jeff Howell, convicted of robbery, etc. in the Court of Oyer and Terminer of Philadelphia County on June 27, 1947, computed from June 18, 1947 be commuted from 10 years to 8 years 4 months 10 days expiring on October 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age. He was sentenced for the crime of robbery by the Court of Oyer and Terminer of Philadelphia County on the 27th day of June 1947, for from 10 to 20 years in the Eastern State Penitentiary.

The applicant plead guilty to the crime of holding up a pedestrian and stealing his wallet. The applicant was guilty of two offenses prior to this arrest, as a juvenile.

The applicant has demonstrated during his incarceration, satisfactory conduct and his institutional record is "very good." The training he received in the institution has made him more capable of avoiding anti-social behaviour.

The trial judge did not reply to our inquiry as to the merits of this application, but the district attorney stated that he would not oppose the application, provided there was a satisfactory parole plan worked out if he be released. The parole plan contemplates his residing with the Salvation Army in Philadelphia and he will be under their guidance and direction. He has been assured that the Salvation Army will look after his employment and maintain him until he does find employment.

The offense for which this applicant is serving sentence was his first offense as an adult and there is every indication from the parole and penitentiary authorities that he will conduct himself in a satisfactory manner. The Board, therefore, recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor,
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Joseph Iskric, E-4624, No. A-3235, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John Joseph Iskric, convicted of burglary in the Court of Oyer and Terminer and Quarter Sessions of Dauphin County on June 1, 1954 be commuted from 2½ years to 20 months expiring on February 1, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-one years of age and was sentenced for the crime of robbery in the O. & T. court of Dauphin County for from 2½ to 5 years effective June 1, 1954. This applicant together with two accomplices committed a number of robberies in the Dauphin County area. This applicant had no previous criminal record and this was his first known offense. The prison authorities state that the man's institutional adjustment has been consistently satisfactory and he has proved himself to be dependable and willing. The sentencing judge, the Honorable Walter R. Sohn stated that he neither opposes nor recommends clemency, depending upon the judgment of the Board of Pardons. Likewise the district attorney at the hearing stated that he relied upon the good judgment of the board. The Board of Pardons is recommending commutation of this sentence for the reason that they believe that this crime to be his first and has he been sufficiently punished to make him aware that violations of the rules of society always carries a penalty. We believe this young man if returned to society will conduct himself properly and will not become involved in further criminal activities.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Floyd Jackson, D-9919, No. A-1091½, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Floyd Jackson, convicted of robbery, assault and battery; aggravated assault and battery; assault and battery with intent to kill in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 29, 1947, computed from September 22, 1947 be commuted from 13½ years to 8 years 1 month expiring on October 22, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age. He was sentenced for the offense of armed robbery by the Court of Oyer and Terminer of Philadelphia County for from 13½ to 27 years, effective September 22, 1947. The applicant and two accomplices held up an office of a contractor in Philadelphia. The district attorney stated that he was not opposed to clemency.

This applicant had no previous criminal record and during his incarceration at the Eastern State Penitentiary the authorities report he has made every effort to improve himself. He appears to be a confident, well-meaning and rational individual. The authorities report that his 8 years in prison has served its purpose in maturing this individual.

The board believes that this applicant has been sufficiently punished and that if released he will no longer engage in any criminal activities and, therefore, the board recommends that clemency be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert Johnson, 832-D, No. A-3173, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Robert Johnson, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions, of Philadelphia County, on April 11, 1944, computed from April 1, 1944, be commuted from 40 years to 11 years, 6 months, expiring on October 1, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 1, 1984.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General,
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Rollin Jones, Jr., No. A-3138, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Rollin Jones, Jr., convicted of Assault with intent to maim, in the Court of Quarter Sessions of Delaware County, on March 21, 1947, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age. He was sentenced for the crime of assault with intent to maim, by the Quarter Sessions Court of Delaware County, on March 21, 1947, for from 6 months to 3 years in the Delaware County Prison.

This offense arose from an altercation with the police officer who stopped the automobile in which the applicant and his accomplice were riding. During the altercation the policeman was assaulted.

The applicant was released from prison in September 1947 and released from parole in September 1950.

The applicant had a distinguished record in World War II. Following his release from prison he took a course in agriculture at Pennsylvania State College and equipped himself to become a farm manager. He served his apprenticeship at the Polk Farm School for one year and for the past three years he has been employed as manager of the Dairy Farm of James A. Cochrane, of Chester, Pa.

Inquiry made by the parole officer indicates that he has established himself in the community in which he lives and is held in high regard by the owner of these farms, James A. Cochrane. The applicant is married and has a family. He occupies a very comfortable home on the farm.

The trial judge, the Honorable Harold L. Ervin, stated to the Board that this application for pardon should be granted. Likewise, the district attorney's office stated at the hearing of the Board that he was not opposed to the granting of this pardon.

The applicant is desirous of his pardon so that he may advance himself in his chosen profession and therefore recommendation of the Board is that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General,
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Leo R. Kaminski, 76495, No. A-3209, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Leo R. Kaminski, convicted of bribery and conspiracy, in the Court of Quarter Sessions of Erie County, on January 6, 1955, be commuted from 1 year 3 months to 11 mouths, expiring on December 6, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty years of age and was sentenced for the crime of bribery and conspiracy by the court of Quarter Sessions of Erie County for from 1¼ years to 2½ years effective January 6, 1955. The applicant operated a newspaper and tobacco store in Erie wherein he sold numbers. In order to protect himself in the operation of this business, he regularly paid protection money to the city police of Erie.

The trial judge, the Honorable Elmer L. Evans, stated to the parole agent that he would rely upon the decision of the Board of Pardons. The district attorney stated that he was opposed because the applicant did not plead guilty at the trial but stated later on that he had no objection if the minimum sentence would be reduced. The applicant holds an honorable discharge from the U. S. Navy.

The Board of Pardons believes that this applicant has been sufficiently punished and, therefore, recommends that his minimum sentence be reduced to 11 months effective December 6, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General,
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Marion Stanley Kapelski, D-4811, No. A-293, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Marion Stanley Kapelski, convicted of murder in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Berks County on March 26, 1940, be commuted from life imprisonment to 15 years, 7 months, expiring on October 26, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age and was sentenced to life imprisonment for the crime of murder in the first degree. This applicant was convicted, together with several accomplices, for the crime of murder in connection with a holdup of a gasoline station and the killing of an attendant. His previous arrests were juvenile offenses.

Since this applicant's incarceration, he has made probably the most remarkable record of any prisoner confined in our penitentiaries. From a young man with average schooling, he has developed himself to such an extent as to be a recognized scientist in the field of atomic missiles. The Bartol Research Foundation of Franklin Institute of Philadelphia spoke of his advancement in scientific matters most flatteringly. The Fairchild Aircraft Corporation in Hagerstown, Maryland, writes that he is so far advanced that they were sending his material to the directors of Guided Missiles in Long Island. The aircraft division of the Hughes Tool Company states that his design of a folding aircraft blade shows considerable merit. The Board has on file letters from various aircraft concerns in this country indicating their interest in his developments. The Atomic Energy Commission, Washington, D. C., states that they were happy to have their technical staff evaluate his theories.

The trial judge, the Honorable Paul M. Schaeffer, personally appeared before the Board and strongly recom-

mended clemency. Likewise, the district attorney's office of Berks County stated they were not opposed.

The Board recommends that clemency be extended to this remarkable individual who has developed into an atomic technologist while confined in the Eastern State Penitentiary. The Board has no hesitation in believing that he will find employment upon his release and they further believe that this man will conduct himself in the future in such a manner that he will be a credit to society. The Board, therefore, recommends that his life sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of James G. Kehoe, D-9665, No. A-423, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James G. Kehoe, convicted of murder in the first degree in the Court of Oyer and Terminer of Philadelphia County on June 9, 1947, computed from March 27, 1947, be computed from life imprisonment to 8 years, 7 months, expiring on October 27, 1955.

Our reasons for making this recommendation are as follows:

The applicant is forty-four years of age, and was sentenced for a crime of murder and life imprisonment effective the 27th day of March, 1947. The offense for which this man was sentenced to life imprisonment involved the killing of his wife, and the injury to his little boy during a period of intoxication. Since his incarceration, the applicant has matured and has held responsible positions in the penitentiary. He has been commended for his work and adjustment while confined. The judges, Honorable James C. Crumlish and Honorable L. Stauffer Oliver, both recommend favorable consideration of this application. Particularly, Judge Oliver stated, "In this crime there was no evidence of brutality or criminal disposition. I think this defendant has been fully punished and is entitled to be released." The District Attorneys' office at the open hearing stated that they were now in favor of the release of this applicant, and were not opposed to clemency at this time.

The board, therefore, recommends that this applicant be released, believing that he has demonstrated his ability to conduct himself in a law abiding manner, and that he will not in the future become involved in any further criminal activity.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Eugene Milton Kennedy, E-3190, No. A-3227, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Eugene Milton Kennedy, convicted of robbery armed with an offensive weapon, in the Court of Quarter Sessions of Philadelphia County on August 27, 1952, computed from April 25, 1952, be commuted from 5 years to 3 years, 6 months, expiring on October 25, 1955.

Our reasons for making this recommendation are as follows:

The applicant is twenty-seven years of age, and was sentenced for the crime of armed robbery in Philadelphia County for a term from not less than 5 years, nor more than 20 years, effective April 25, 1952. This applicant had practically no prior record, and this offense for which he was sentenced did not involve brutality. The District Attorney's office in Philadelphia County stated that they were not opposed to the granting of clemency in this matter.

There was a serious question that one of the accomplices in this crime, Joseph Brown, had perjured himself by involving the applicant in these offienses. When the matter of perjury was brought recently to the attention of the court, it was suggested that probably the Board of Pardons could act more efficienty and quickly than the processes of legal procedure in the court.

One of the most remarkable phases of this applicant's rehabilitation is his study of Braille in which he has assisted the Blind Society in making available standard English in Braille. The board believes that this young man will no longer become involved in criminal activities, and will adjust himself to society, and therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Floyd Knapp, 4977-C, No. 8666, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Floyd Knapp, convicted of statutory rape, the Court of Quarter Sessions of Bradford County on January 22, 1943, be commuted from 15 years to 12 years, 9 months, expiring on October 22, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 22, 1958.

For the reason that his applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Alphonso Larue, No. 9867, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, and in open session, the undersigned members of the Board of Pardons, recommend that the death of Alphonso Larue, who was tried upon a certain indictment and convicted of murder in the first degree, in the Court of Oyer and Terminer and General Jail Delivery of Philadelphia County on April 15, 1954, be commuted from death to life imprisonment.

Our reason for making this recommendation are as follows:

The applicant, twenty-eight years of age, was convicted of murdering Mildred Walker on the night of July 30, 1952, in Philadelphia. The victim was stabbed to death following a violent quarrel. Applicant was arrested a few days later and confessed to the commission of the crime, but at the trial he changed his plea to not guilty.

The full facts following the background of this crime never were revealed at the trial. However, the evidence indicates that this murder clearly occurred in an atmosphere of passion. Inflamed by jealousy, the applicant lost all sense of reason and caution. This evidence is supported by testimony indicating that applicant was in a good humor when he entered the victim's home and was not intent upon harming Mildred Walker. The weapon used was not found, but circumstances point to a kitchen knife which the victim had in her bedroom. This also indicates a lack of premeditation on applicant's part.

Furthermore, there appears to have been a serious clash of personalities at the trial which prevented all the issues from being explored fully. In such an atmosphere the jury well may have been adversely affected. The Assistant District Attorney of Philadelphia, who tried the case on behalf of the Commonwealth, stated that this atmosphere and the applicant's failure to reveal all the facts may well have caused the jury to decide on the death penalty rather than life imprisonment.

Considering that the evidence shows a lack of malice and premediation in the commission of this murder and that the jury may have been influenced by considerations adjunct to the crime itself, the Board feels that the exercise of clemency is justified and recommends commutation of the sentence from death to life imprisonment.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Andrew Dixon Lawrence, D 1147, No. 6773, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Andrew Dixon Lawrence, convicted of murder in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Montgomery County on February 21, 1936 be commuted from life imprisonment to 19 years, 8 months expiring on October 21, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age and was sentenced to life imprisonment for the crime of murder in the first degree by the Court of Oyer and Terminer of Montgomery County. This applicant was guilty of killing his wife by poisoning.

The sentencing judge, the Honorable W. F. Dannehower, states: "I have no objection whatever if the Board sees fit to commute this sentence as the conduct record of this defendant has been good while in prison." The district attorney's office of Montgomery County stated before the Board that the applicant is a good parole risk and that they do not oppose clemency at this time. The penitentiary authorities state that he is a very good inmate. He has made serious attempts to self-improvement and is enrolled in the academic school. It appears that this applicant's ability to conform and avoid anti-social acts in the future is substantially increased. This applicant has spent many years in the penitentiary and the Board feels if he is to be released, now is the best time, while he is still young enough to find employment.

The Board is confident that this man has learned his lesson and that he will not again violate the law. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Raymond Leake, 957-D, No. 6521, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Raymond Leake, convicted of rape; sodomy; robbery and receiving stolen goods in the Court of Oyer and Terminer of Allegheny County on November 24, 1937, computed from November 15, 1937 be commuted from 45 years to 17 years, 11 months, expiring on October 15, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after receiving his record. But for this action the applicant, because of his sentence, would remain on parole until November 15, 1982.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank S. Linkowski, No. A 1326, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Frank S. Linkowski, convicted of voluntary manslaughter in the Court of Oyer and Terminer and Quarter Sessions of Berks County on January 5, 1950 be commuted from 10 years to 5 years, 9 months, 20 days, expiring on October 25, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age, and was sentenced for the crime of voluntary manslaughter by the Court of Oyer and Terminer of Berks County for from 5 to 10 years, effective January 5, 1950. This applicant became involved in a fight in a club, and as a result the victim died of a revolver wound.

The applicant was released on parole after commutation of his minimum sentence in July, 1952, and since that time he has been steadily employed, and is now working for the Carpenter Steel Company of Reading at a good salary.

The trial judge, the Honorable Forrest R. Shannaman, stated that he would rely upon the board for their best judgment in this matter. Likewise, the District Attorney's office relies upon the board for exercise of their best judgment.

Since the applicant has been on parole the Board of Parole says that he has conducted himself in a very satisfactory manner, and that he has made payment to the court for the costs of trial. The board further states that he has made a very good adjustment, and they are not opposing clemency in this matter. The board, therefore, recommends that the applicant be extended the clemency of the Commonwealth.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Benjamin Meyers, 7091-C, No. 5747, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Benjamin Meyers, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on December 31, 1937, computed from December 22, 1937, be commuted from 20 years to 17 years, 10 months, expiring on October 22, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 22, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of maximum sentence of the applicant be communted and that he be freed from further parole supervision.

Respectfully submitted:

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank McGuigan, E-2679, No. A-2562, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Frank McGuigan, convicted of sodomy, robbery, assault and battery, aggravated assault and battery, in the Court of Oyer and Terminer of Chester County on

December 4, 1951, be commuted from 8 years to 4 years, expiring on December 4, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-seven years of age and was sentenced by the Oyer and Terminer Court of Chester County for the crime of robbery, aggravated assault and battery, and sodomy for not less than eight years or more than twenty-three years to the Eastern State Penitentiary effective December 4, 1951. The applicant had no prior criminal record.

This crime arose when the applicant and his accomplice stole a sum of money from the vitim who had also committed sodomy. The trial judge, the Honorable W. Butler Windle, had no recommendation to make. It was stated at the hearing that the district attorney's office was not opposed. The accomplice of this applicant has had his sentence commuted by the Board in December 1954.

The prison authorities report that the applicant is an above-average inmate and is now employed in the institution in a position of trust. The Board believes that this young man has been sufficiently punished due to the fact that he had no prior criminal record except one juvenile offense of a minor nature.

The Board, therefore, recommends that his sentence be commuted effective four years from the date of his incarceration.

Respectfully submitted:

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert McKnight, D-3224, No. A-1158, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Robert McKnight, convicted of murder in the first degree, in the Court of Oyer and Terminer of Delaware County on June 29, 1938, be commuted from life imprisonment to 17 years 4 months, expiring on October 29, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age and was sentenced to life imprisonment for the crime of murder in the first degree by the Oyer and Terminer Court of Delaware County, effective June 29, 1938. The applicant together with two accomplices went to a disorderly house in Chester for the purpose of robbing and in the course thereof the victim was shot and killed. One of the accomplices was later killed by the police in resisting arrest. The other accomplice, Frank Pepi, had his sentence commuted in December 1954. The penitentiary authorities report that he has conducted himself in a satisfactory manner and that he appears to be now a normal mature individual. The sentencing judge, the Honorable W. R. Fronefield states that due to the fact that Frank Pepi who was involved with McKnight was paroled, "I would think that this applicant would be entitled to the same treatment accorded Pepi." The district attorney's office of Delaware County stated that they also believe hat the same treatment should be accorded McKnigh as was accorded Pepi.

The Board of Pardons, therefore, recommends that his life sentence be commuted.

Respectfully submitted:

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Arnold McNeeley, E-4643, No. A-3155, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Arnold McNeeley, convicted of voluntary manslaughter, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on June 23, 1954, computed from February 10, 1954, be commuted from 3 years to 1 year, 8 months, 20 days, expiring on October 30, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty years of age and was sentenced for the crime of voluntary manslaughter by the Oyer and Terminer Court of Philadelphia County for from 3 to 12 years effective February 10, 1954. The crime arose from a fight in a restaurant in which the victim made gestures toward his back pocket as though he was drawing a revolver and the applicant shot him.

The district attorney's office does not oppose to clemency in this matter. However, the trial judge, the Honorable Eugene V. Alesandroni was not in favor of clemency.

The applicant had no prior criminal record. The institutional record of this applicant is reported to be satisfactory and he is proving to be cooperative in every way. The board in recommending clemency believes that this applicant has served a substantial portion of his minimum sentence and further believes that this man will conduct himself in the future in a satisfactory manner and if released will no longer become involved in criminal activities

The board, therefore, recommends that his minimum sentence be commuted.

Respectfully submitted:

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Eugene Miller, 6867-C, No. 1933, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Eugene Miller, convicted of rape, statutory rape, robbery, receiving stolen goods, in the Court of Oyer and Terminer of Allegheny County on November 23, 1928, be commuted from 15 years to 11 years, 11 months, expiring on October 23, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 23, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted:

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Samuel Mitchell, 414-D, No. 5636, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Samuel Mitchell, convicted of felonious entry, robbery, armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Montgomery County on April 12, 1933, computed from August 13, 1938 (date of parole) be commuted on Bill No. 51-1 from a maximum sentence of 20 years to a new maximum sentence of 7 years, 2 months, 2 days, expiring on October 15, 1955, and be commuted on Bill No. 51-6 from a maximum sentence of 10 years to a new maximum sentence of 1 day, expiring on October 16, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 24, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted:

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In the application of Phillip John Mollica, D-7667, No. A-1428, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Phillip John Mollica, convicted of murder in the first degree in the Court of Quarter Sessions of Philadelphia County on March 22, 1944 be commuted from life imprisonment to 10 years 7 months expiring on October 22, 1954.

Our reasons for making this recommendation are as follows:

This applicant is thirty-three years of age, and was sentenced for a crime of murder in the first degree, with life imprisonment effective March 27, 1944, Court of Quarter Sessions and Oyer and Terminer, Philadelphia. The applicant plead guilty to the offense. The crime arose when the applicant together with two accomplices raided a card game and in the course of the robbery the applicant shot one of his accomplices. Two of the accomplices of this offense, Joseph Maleno and Jessie DiGuglielmo, were sentenced to life imprisonment, have already received a commutation of their sentence. During applicant's imprisonment, prison authorities report, that he has shown increased stability and maturity and has demonstrated his good vocational work and has demonstrated his control over his emotions. The District Attorney is not in favor of this commutation. The board believes that this applicant will not become involved in any further criminal activity. His participation in the offense for which he was sentenced was not that of a ring-leader. At present, his mother is very ill and the release of this young man at this time will help considerably in the support of the family. The board, therefore, recommends that the sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James A. Moloney, 7, No. A-2954, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James A. Moloney, convicted of Forgery in

the Court of Quarter Sessions of Lackawanna County on May 7, 1954, computed from April 6, 1954 be commuted from 3 years to 1 year 6 months 20 days expiring on October 26, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-five years of age and was sentenced for from 1 to 2 years by the Quarter Sessions Court of Lackawanna County for the crime of issuing fraudulent checks. He has a prior record of a similar offense. However, it would appear that his trouble usually arose following a drinking spree.

Patrick J. Manley, Warden of the Lackawanna County Prison, states it is his feeling that the imprisonment which applicant is undergoing is sufficient to make him sincerely determined to mend his ways. It would appear that the applicant has become a member of the Alcoholic Anonymous and if he continues with that group he will probably avoid future trouble. The prison physician, Dr. J. D. Benedict, recommends release on parole and states that this applicant has shown a genuine sense of responsibility and has placed himself under his guidance.

The trial judge, the Honorable T. L. Hoban, recommends to the Board that parole can well be given this man at the completion of one year's imprisonment. The district attorney states that restitution has been made to the various persons defrauded and that he is not opposed to commutation of sentence. A parole plan has been set up for this applicant which gives every appearance of being most satisfactory.

The Board, therefore, recommends that this applicant's sentence be commuted

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ben Monblatt 7608-C, No. 6823, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Ben Monblatt, convicted of robbery in the Court of Oyer & Terminer and Quarter Sessions of Philadelphia County on September 13, 1938, computed from August 19, 1938 be commuted from 20 years to 17 years, 2 month expiring on October 19, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until August 19, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Mosley, D-977, No. 8609, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph Mosley, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on November 6, 1935 be commuted from 20 years to 13 years 5 mos. 10 days expiring on October 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age, and was sentenced for the crime of robbery, armed with an offensive weapon by the Court of Oyer and Terminer and Quarter Sessions of Philadelphia for from 2½ to 20 years.

The applicant was released on parole on the second of June, 1938, and since that release he has been involved in minor violations of his parole arising from intoxication. At present he is in the penitentiary as a parole violator. His return was again the result of intoxication.

The district attorney of Philadelphia does not oppose the granting of clemency in this matter believing that this applicant has served enough time and that his return to the penitentiary has arisen from technical violations rather than for real criminal offenses, and as a result he has had a rather protracted imprisonment.

The applicant has served over twelve years of a maximum sentence of twenty years. The Board beleives that this applicant has certainly been punished sufficiently and has learned his lesson the hard way. The Board, therefore, recommends that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Bertha Murray, 1540-D, No. 8986, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Bertha Murray, convicted of murder, in the

second degree, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 26, 1944, computed from March 27, 1944, be commuted from 20 years to 11 years, 7 months expiring on October 27, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of her adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 27, 1964.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends her for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that she be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Andrew Oreo, 7110-C, No. 5499, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Andrew Oreo, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on November 25, 1938, computed from October 27, 1938 be commuted from 20 years to 17 years expiring on October 27, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request form the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 27, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Lewis F. Parrilla, No. A-3190, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Lewis F. Parrilla, convicted of operating a lottery, in the Court of Quarter Sessions of Allegheny County, on November 23, 1948 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age. He was sentenced by the Quarter Sessions Court of Allegheny County to pay a fine and costs of prosecution for operating a lottery.

This applicant had no prior criminal record. He was selling lottery tickets and was raided by the police and received a fine of two hundred dollors and costs, but received no imprisonment.

Since his arrest in 1948, the applicant has been operating a barber shop in McKees Rocks, Pennsylvania and his conduct according to the parole agent, has been excellent. Likewise, the Chief of Police of Stowe Township states that he is considered to be a good citizen and his reputation in the community is excellent.

The applicant's request for pardon is based on the belief that his conduct merits the removal of this offense from his record, and further, that he will advance more rapidly in his profession if this stain on his record is removed.

The Board recommends that a pardon be granted to this applicant.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Casper A. Pepe, E-5048, No. 3207, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Casper A. Pepe, convicted of burglary, larceny and receiving stolen goods, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on December 14, 1954, computed from September 28, 1954 be commuted from 1 year 6 months to 1 year 1 month expiring on October 28, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-one years of age and was sentenced for the crime of burglary, larceny and receiving stolen goods for a term of 1½ years to 3 years effective September 23, 1954 by the Court of Oyer and Terminer of Philadelphia County. The applicant had no prior record previous to this conviction. The penitentiary authorities seem to believe that his present difficulty was the result of immaturity and that he does not possess criminal tendencies. The applicant's family has made restitution.

The district attorney's office stated that they were not opposed to the granting of this application, although the sentencing judge felt that he should serve out his

minimum. The board believes that this man has been taught a salutary lesson and that he will not become involved in any further criminal activities if released.

The board, therefore, recommends that clemency be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Francis W. Piacentini, 586-D, No. 6451, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Francis W. Piacentini, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 27, 1939, computed from December 17, 1938 be commuted from 50 years to 16 years, 10 months expiring on October 17, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request form the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 17, 1988.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Emil Pleva, No. A-3135, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Emil Pleva, convicted of felonious entry, larceny and receiving stolen goods in the Court of Quarter Sessions of Bucks County, on February 20, 1928, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-four years of age and was sentenced for the crime of felonious entry, larceny and receiving stolen goods by the Court of Quarter Sessions of Bucks County for from 4 to 8 years.

This applicant was parole in 1932 and was discharged from supervision of parole in 1936. Since that time the applicant has been in no trouble at all. At present, he owns and operates, together with a partner, the Universal Brick Pointing and Water Proofing Company of Philadelphia.

This applicant is married and lives in his own home. Since 1932 when the applicant served his sentence, he has been in absolutely no trouble and has developed into an active business man, employing a dozen men, and holds the respect of his business associates in the community.

The trial judge, the Honorable Hiram Keller, is deceased. The President Judge of Bucks County, Edward G. Biester, states to the Board he relies on the judgment of the Board as to the proper disposition of this application.

The Board believes that this man has proved himself to be a capable and responsible citizen and believes he is entitled to the mercy of the Commonwealth, and therefore, recommends a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General,
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,

Governor.

BOARD OF PARDONS

In re application of Warren Andrew Ream, E-5055, No. A-3161, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Warren Andrew Ream, convicted of burglary and larceny, in the Court of Oyer and Terminer and Quarter Sessions of Lancaster County, on October 15, 1954, computed from September 4, 1954, be commuted from 2 years to 18 months expiring on March 4, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age and was sentenced for the crime of burglary and larceny for from 2 to 6 years in the Penitentiary by the Oyer and Terminer Court of Lancaster County. The applicant, together with an accomplice, broke into a number of business places and carried away merchandise and money.

The Penitentiary authorities report that he has adjusted himself very well and has been specially reliable, ambitious, and anxious to learn, and in general shows a positive attitude.

The trial judge, the Honorable Joseph P. Wissler, is opposed to leniency at this time. The district attorney, however, stated to our parole agent that the applicant should serve at least one year of his minimum sentence.

The applicant holds an honorable discharge from the

United States Marines and is a wounded veteran of the Second World War. The applicant has no prior record and this offense appears to be his first violation of the law. The Board, therefore, recommends that this applicant's sentence be commuted when he has served 18 months.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General,
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Nick Ruggiero, 3121-D, No. 6327, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Nick Ruggiero, convicted of entering with intent to steal and larceny, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County, on January 6, 1938, computed from December 30, 1937, be commuted from 20 years to 17 years, 10 months expiring on October 30, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 30, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General,
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Rocco Frank Rugnetta 8127-C, No. 5675, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Rocco Frank Rugnetta, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 17, 1938, computed from March 7, 1938 be commuted from 40 years to 17 years, 7 months expiring on October 7, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 7, 1978.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George Elwood Russell, C-1449, No. A-1963, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of George Elwood Russell, convicted of forgery in the Court of Oyer and Terminer of Blair County on December 13, 1949, computed from November 18, 1949 be commuted from 7 years to 5 years, 11 months expiring on October 28, 1955.

Our reasons for making this recommedation are as follows:

This applicant is thirty-five years of age, and was sentenced by the Court of Oyer and Terminer of Blair County for from 7 to 20 years, for the crime of forgery, effective November 18, 1949. The applicant, and an accomplice, cashed five checks in and around Altoona. His accomplice was released on parole in 1953.

The District Attorney of Blair County states that as this man is to be under a long period of parole supervision they have no objections to his release and the commutation of his minimum sentence at this time. There was no report from the trial judge, the Honorable George Patterson.

The prison authorities state that he has proved himself to be dependable and capable of accepting responsibility. The board believes, although this man has had a record of passing bad checks, his present commitment has taught him a lesson which will serve as a deterrent to future criminal activities of this manner.

The board, therefore, recommends that this minimum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M LEADER,
Governor.

BOARD OF PARDONS

In re application of William Sarhosis, No. A 3175, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that William Sarhosis, convicted of larceny in the Court of Quarter Sessions of Allegheny County, on November 24, 1937, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age and for the crime of larceny he was sentenced by the Quarter Sessions Court of Allegheny County to pay the costs of prosecution and was placed on probation for a period of one year.

This applicant had no previous criminal record and this offense arose because he and several of his accomplices siphoned gasoline from an automobile. The Chief Probation Officer of Allegheny County states that he has paid his court costs in full, and has maintained an excellent probation record. His probation expired in 1938.

The applicant is now the owner of the Shamrock Hotel in Pittsburgh and has a fine home and family. He states that in all the years since this offense he has been a law-abiding citizen and the stain of this arrest and conviction has had a considerable effect upon his mental well-being. The district attorney of Allegheny County stated that he would not oppose the application as this man has had an unblemished record since 1937.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Anthony Joseph Scoleri, E-310, No. A-2595, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Anthony Joseph Scoleri, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 29, 1948, computed from March 24, 1948 be commuted from 20 years to 7 years, 7 months expiring on October 24, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-six years of age and was sentenced for the crime of armed robbery together with three accomplices for from 20 to 40 years in the Eastern State Penitentiary by the Oyer and Terminer Court of Philadelphia County, effective March 24, 1948. The crime for which this applicant was sentenced involved a series of robberies with several accomplices. Two of the three accomplices have had their sentences commuted by the Board of Pardons. This applicant since his incarceration has shown much improvement in personality, has become more mature and has demonstrated a very fine adjustment. The prior records of this applicant were juvenile crimes and his sentence for this serious offense was severe.

The district attorney stated that the applicant was only 19 years of age when these offenses were committed and that from the improvement demonstrated in the penitentiary the applicant is worth a change and therefore they would not oppose clemency. The trial judge, Harry S. McDevitt is deceased.

The board, therefore, recommends that clemency be extended to this young man believing that he has learned his lesson and will not become involved in any further criminal activities.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Donald E. Seachrist, No. A-3191, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Donald E. Seachrist, convicted of Involuntary Manslaughter, in the Court of Quarter Sessions of Lancaster County, on March 15, 1955, be commuted from 1½ years to 1 year, expiring on March 15, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-three years of age and was sentenced for the crime of involuntary manslaughter for from 1½ to 3 years in the Lancaster County Prison, effective March 15, 1955. This offense was particularly tragic in that the applicant, in driving a party of young people from Denver to Lancaster, his car went out of control and five people were killed, the applicant being very seriously injured. There was no testimony at the trial that the applicant, who drove the automobile, was under the influence of alcoholic beverages, although he had been drinking.

Numerous letters have been received from citizens of Lancaster County stating that they believe that this young man has been sufficiently punished. The Board also has a petition signed by the parents of four of the victims setting forth their prayer for leniency and stating they had no objection to the release of the applicant.

The trial judge, the Honorable Joseph P. Wissler,

states that all the circumstances were taken into consideration at the time of sentence and that he was opposed to granting of commutation at this time. However, the district attorney stated to the parole agent that he was not opposed to the granting of leniency.

The applicant has an honorable discharge from the United States Army and has always conducted himself in a very fine way in his home county. The Board recommends that his minimum sentence be commuted and that he be released at the expiration of one year.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William E. Shands, 7605-C, No. 6363, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William E. Shands, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 30, 1939, computed from March 23, 1939 be commuted from 40 years to 16 years, 7 months expiring on October 23, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 23, 1979.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be free from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Sukle, 2488-C, No. 7030, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Sukle, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Dauphin County on August 22, 1939 be commuted from 10 years to 6 years, 2 months expiring on October 22, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until August 22, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Price, Sylvester, 7267-C, No. A-3230, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Sylvester Price, convicted of being armed to rob, etc. in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 21, 1939, computed from September 9, 1938 be commuted from 20 years to 17 years, 1 month expiring on October 9, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 9, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Tate, George A., 7431-A, No. 3387, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of George A. Tate, convicted of murder in the first degree, in the Court of Oyer and Terminer of Fayette County on December 30, 1932 be commuted from life imprisonment to 22 years 10 months expiring on October 30, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Heinrich Untch 3712-B, No. A-35, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Heinrich Untch, convicted of robbery, armed with an offensive weapon in the Court of Oyer and Terminer of Allegheny County on October 27, 1948, computed from October 6, 1948 be commuted from 10 years to 7 years expiring on October 6, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 6, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Albert Joseph Vetrone, No. A-3158, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Albert Joseph Vetrone, convicted of robbery and carrying concealed deadly weapons in the Court of Quarter Sessions of Philadelphia County, on July 26, 1929 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age and was sentenced for the crime of armed robbery and carrying concealed deadly weapons by the Oyer and Terminer and Quarter Sessions Court and placed on probation for a period of two years.

Since his conviction in 1929, the applicant has been employed by the Stanley Warner Corporation of Philadelphia. He is an accountant and has advanced himself in that corporation to a rather responsible position.

This applicant is a veteran of the Second World War and was honorably discharged in January 1946. He is married and has one child.

The trial judge, the Honorable Raymond MacNeille recommends consideration of this application for pardon. Likewise, the district attorney's office states they are not opposed.

The Board, therefore, recommends that pardon be granted to this young man.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Raymond Wagner 5831-C, No. A-3170, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Raymond Wagner, convicted of robbery, in

the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 13, 1939, computed from February 23, 1939 be commuted from 30 years to 16 years, 8 months expiring on October 23, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 23, 1969.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Lawrence Wildermuth, 7604-D, No. 8427, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Lawrence Wildermuth, convicted of Robbery, armed with an offensive weapon, in the Court of Oyer and Terminer of Allegheny County on July 5, 1940, computed from June 8, 1940 be commuted from 20 years to 15 years, 4 months, expiring on October 8, 1955.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 8, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd.) ROY E. FURMAN,
Lieutenant Governor.
(Sgd.) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd.) HERBERT B. COHEN,
Attorney General.
(Sgd.) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd.) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Erbor J. Worseck, C-526, No. A-1486, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Erbor J. Worseck, convicted of robbery, while armed; assault with intent to kill; burglary; larceny and receiving, in the Court of Oyer and Terminer and Quarter Sessions of Lehigh County on January 12, 1948, computed from September 30, 1947, be commuted from 16 years to 8 years, 1 month, expiring on October 30, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty years of age and was sentenced for the crime of armed robbery, assault with intent to kill, burglary, larceny and receiving stolen goods for from 16 years to 32 years by the Oyer and Terminer Court of Lehigh County.

The applicant, together with a number of accomplices, were involved in a series of armed robberies and when the police officers came to arrest the applicant at his home, he held up the uniformed officer and took the Chief of Police with him as a shield and drove him off in a car. He later released the chief without harm to him.

Judge James F. Henninger, of Lehigh County, states that: "although his crime was most serious he was a wild young man and as his conduct in prison has been satisfactory he believes it might be a good experiment to release him on parole." The district attorney of Lehigh County, however, felt that the sentence was a lenient one and had no recommendation to make but relied upon the action of the Board.

The penitentiary authorities state that the applicant has served almost 8 years and has made a good institutional adjustment. He seems to have been sobered somewhat by the present imprisonment and he is apparently not a hard and vicious criminal. The applicant had a prior record consisting of juvenile offenses only.

The Board feels that the parole plan which has been set up for this young man appears to be a satisfactory arrangement and they are persuaded that under the circumstances it might be wise to give this young man an opportunity to prove his determination to live a law-abiding life. He would be under the supervision of the Board of Parole for many years. The Board, therefore, recommends that his sentence be computed.

Respectfully submitted,

(Sgd.) ROY E. FURMAN—Dissents,
Lieutenant Governor.
(Sgd.) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd.) HERBERT B. COHEN,
Attorney General.
(Sgd.) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd.) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Zukovsky, D-2141, No. 8547, September Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due

public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John Zukovsky, convicted of Murder in the First Degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 17, 1937 be commuted from life imprisonment to 18 years, 6 months, 10 days, expiring on October 27, 1955.

Our reasons for making this recommendation are as follows:

This applicant is fifty-five years of age and was born in Lithuania. He was sentenced for the crime of murder in the first degree and sentenced to life imprisonment by the Court of Oyer and Terminer of Philadelphia, effective November 1, 1933. The applicant with two accomplices held up the Allied Kid Company of Philadelphia. During the holdup, a police officer was shot and killed. During the incarceration of this applicant, the prison authorities report that he has earned the reputation of being a model prisoner. He has proved his stability by saving a considerable sum of money. In every respect this applicant has maintained an excellent prison record. He is a mature and rational individual and can accept responsibility. His accomplices are dead, one having committed suicide and the other having been murdered. The District Attorney of Philadelphia County stated that he was not opposed to clemency and that this man has served considerable length of time for the crime involved. The trial judge, Honorable Harry McDevitt, is deceased. The U. S. Immigration Service has filed a deportation warrant and the applicant will probably be deported to Lithuania. The board recommends that applicant be considered because of his excellent record in the penitentiary and his development in personality and maturity so that he will easily adjust himself to society and will no longer become involved in criminal activities and therefore recommends clemency.

Respectfully submitted,

(Sgd.) ROY E. FURMAN,
Lieutenant Governor.
(Sgd.) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
NOT SITTING,
Attorney General.
(Sgd.) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd.) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William C. Bell, D-9953, No. A-2125, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William C. Bell, convicted of robbery, etc., in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on October 7, 1947, computed from July 23, 1947 be commuted from 10 years to 8 years, 4 months, 20 days, expiring on December 13, 1955.

Our reasons for making this recommendation are as follows:

The applicant is forty-four years of age, and was sentenced by the Oyer and Terminer Court of Delaware County for from 10 to 20 years in the Eastern State Penitentiary for the crime of robbery.

The applicant, together with three accomplices, participated in a crap game in Chester. They alleged that they were cheated out of about $200.00, and asked for the return of their money. Later they returned to the game and held up the participants and regained the funds, allegedly of which, they were cheated.

The accomplices have received lesser sentences, except one, and they are now on parole.

The trial judge, the Honorable Albert McDade, is deceased, and the President Judge of Delaware County did not express an opinion as to the merits of the application. The District Attorney of Delaware County states that he was not opposed to the granting of the application.

The Board has on file letters from citizens of the State of Delaware indicating that they are in favor of clemency. Among these letters is one from the Sheriff, Robert Pippin, of Kent County, Delaware; likewise from J. Wesley Walls, Register of Wills of that county.

The Board believes that this young man has demonstrated during the past eight years or more his determination to conduct himself as a law-abiding citizen. The institution reports that he has demonstrated improvement in his basic personality structure. His parole plan will be thoroughly investigated and there is every belief that he will conduct himself in the future as a respectable citizen. The Board, therefore recommends commutation.

Respectfully submitted,

(Sgd.) ROY E. FURMAN,
Lieutenant Governor.
(Sgd.) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd.) HERBERT B. COHEN,
Attorney General.
(Sgd.) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd.) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Elmer Boyd, E-3676, No. A-3244, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: the above application having been heard, upon due notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Elmer Boyd, convicted of assault with intent to rob, in the Court of Oyer and Terminer of Delaware County on April 24, 1953, computed from January 10, 1953, be commuted from 5 years to 2 years, 11 months, 9 days, expiring on December 19, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-five years of age, and was sentenced for from 5 to 10 years in the Eastern State Penitentiary for the crime of assault with intent to rob.

The applicant, together with three accomplics, entered a tavern, and held up at the point of a gun three men found therein, and robbed them of approximately $300. The applicant drove the get-away car and did not enter the tavern.

One of the accomplices, John Bonner, was released from the Delaware County Prison in August of 1955. The other accomplice, Francis Hope, is still confined in the Delaware County Prison. The third accomplice, Warren Cooper, is confined at Farview State Mental Hospital.

The trial judge, the Honorable William R. Toal, states to the Board that if the applicant has a satisfactory parole plan which assures him of employment upon release, he has no objection to the Board favorably acting upon his application. Likewise, the district attorney of Delaware County stated that if the parole plan is satisfactory, he would not oppose clemency.

The Board is assured that the Board of Parole will carefully check the parole plan, and will see that proper employment will be made available upon his release.

This young man had been involved in prior offenses of

a minor character, but this sentence is the most severe he has received. It is believed by the Board that he will conduct himself in the future in a satisfactory and law-abiding manner. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY D. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Troy Lee Christy, No. A-3241, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: the above application having been heard, upon due notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Troy Lee Christy, convicted of aggravated assault and battery with intent to kill; wantonly pointing firearms, etc., in the Court of Quarter Sessions of Montgomery County, on March 19, 1954, be commuted from 2 years to 1 year, 9 months, expiring on December 19, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age. He was sentenced by the Quarter Sessions Court of Montgomery County for the offense of aggravated assault and battery with intent to kill and wantonly pointing firearms on the nineteenth day of March 1954 for from two to five years in the Montgomery County Prison.

The applicant's offense was the result of intoxication wherein there was a fight between the applicant and the victim. In the scuffle the revolver held by the applicant exploded and injured the victim.

The trial judge, the Honorable Harold G. Knight, states that as his minimum sentence expires in March 1955 he has no objection to any leniency that the Board may extend to him. The district attorney likewise stated that he had no objection to the granting of clemency at this time and felt that if he would restrain from drinking he would avoid any further trouble.

The Warden of the Montgomery County Prison states that this applicant is a frank, pleasant person and his institutional adjustment has been satisfactory. The Board believes that this applicant, with no prior criminal record has been sufficiently punished and that he has been taught a lesson which has been a severe but a salutary one. The Board believes that this man will conduct himself as a law-abiding citizen in the future, and recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY D. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Russell David Fettrow, now Russell David Harris, No. A-3263, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Russell David Fettrow, now Russell David Harris, convicted of attempted sodomy and sodomy in the Court of Oyer and Terminer of Cumberland County, on March 30, 1948 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age. He was sentenced by the Oyer and Terminer Court of Cumberland County for the offense of sodomy and attempted sodomy. This sentence was suspended provided he would take treatments in the state hospital. The applicant was so treated and was discharged.

During World War II this applicant had a most distinguished record in the Air Corps being awarded the Distinguished Flying Cross by the government of United States and Great Britain. After the war, this applicant enrolled as a student in Dickinson College and became interested in youth work. It was during this period of youth activities that he engaged in improper sexual act with three boys.

The applicant moved to the West coast and became a student in the College of the Pacific, from which he graduated. A letter from Robert E. Burns, President of the College of the Pacific, is in our file stating that this applicant was not only a student but was very outstanding during his college life. The applicant then matriculated at Southern Methodist University in Texas, and received his Bachelor of Divinity degree. He then returned to California and was ordained a minister of the Methodist Church. The applicant made a full disclosure of his record to the officials of the Methodist Church but because of his excellent adjustment, the church authorities ordained him a minister and placed him in charge of a church at Pittsburgh, California.

The Board has no hesitancy in recommending the mercy of the Commonwealth to this applicant. If ever a person has been rehabilitated certainly this applicant is that person. The minister of the largest Methodist Church in San Francisco, California, writes the Board of the fine, able, intelligent mind and the excellent progress the applicant is making in his service to God and humanity. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Flaville, E-4472, No. A-3255, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Charles Flaville, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of

Philadelphia County on April 22, 1954 be commuted from 3 years to 1 year, 8 months expiring on December 22, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age and was sentenced for the crime of robbery on April 22, 1954.

The applicant, and his accomplices, one of whom was his brother, Raymond, held up and robbed the Abbott Dairies and the Steamfitters' Union Headquarters. The sum of approximately $3500.00 was realized from these two robberies. The robbery of the Union Headquarters was assisted by a Betty Beidell, a secretary employed by the Union.

The trial judge, the Honorable Curtis Bok, recommends that clemency be extended to the applicant. The judge expresses the thought that the prompt action of the police and Court had a most salutary effect upon the applicant. The district attorney's office, however, was opposed to granting the application.

The prison authorities report that this applicant has made an excellent institutional adjustment, and has applied himself to trade training. The applicant has no prior criminal record. This young man likewise had a distinguished record in World War II.

The thought was expressed that the excursion into crime by this applicant, and his brother Raymond, was caused by marital discord in the home of each of them.

The applicant has served more than one-half of this minimum sentence. The Board, therefore, recommends that the sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Raymond Flaville, T-4473, No. 3256, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Raymond Flaville, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 22, 1954 be commuted from 3 years to 1 year, 8 months expiring on December 22, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-nine years of age and was sentenced for the crime of robbery on April 22, 1954.

The applicant, together with his brother Charles, and a girl by the name of Betty Beidell, burglarized the Abbott Dairies and the Headquarters of the Steamfitters' Union. The loot amounted to about $3500.00. The burglarizing of the Union Headquarters was aided and abetted by the said Betty Beidell, who was an employee of the Union.

The trial judge, the Honorable Curtis Bok, recommends clemency on behalf of this applicant. The district attorney is opposed.

This young man was honorably discharged from the Army at the conclusion of World War II. It was felt that this excursion into crime by the applicant and his brother was caused by marital difficulties.

The applicant, according to the prison Chaplain, has rehabilitated himself in a remarkable fashion, and it is believed that he will, if released, lead a law-abiding life.

The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward Fox, E-270, No. 2700, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Edward Fox, convicted of robbery, etc. in the Court of Quarter Sessions of Philadelphia County on April 14, 1948, computed from March 5, 1948 be commuted from 10 years to 7 years, 9 months, 10 days expiring on December 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-seven years of age. He was sentenced by the Philadelphia Court for from ten to thirty years, on the fourteenth day of April, 1948.

The applicant, together with two accomplices, engaged in a series of robberies in Philadelphia and Bucks Counties and in one robbery a revolver was used as a threat.

The trial judge is deceased and the present judge, the Honorable Joseph L. Kun, stated that he would rely upon the Board for its determination. The district attorney's office stated that it was not opposed to the granting of clemency.

During this applicant's imprisonment he has conducted himself in a favorable manner and has become a more mature and stable individual.

The prior record of this applicant consisted of two juvenile offenses. The Board believes that the future of this young man would be that of a law-abiding citizen; that he has learned his lesson; and that there is every evidence that he will conduct himself properly in the future. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Sidney Graves, 7908-C, No. 6916, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Sidney Graves, convicted of armed robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 12, 1933 be commuted from 40 years to 23 years expiring on January 12, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 12, 1973.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of David Green, D-5823, No. 9767, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of David Green, convicted of murder in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on June 10, 1941, computed from December 3, 1940 be commuted from life imprisonment to 15 years, 10 days expiring on December 13, 1965.

Our reasons for making this recommendation are as follows:

This applicant is forty-eight years of age. He was sentenced in Philadelphia County to a term of life imprisonment for murder in the first degree on June 10, 1941. The offense arose from a dispute with his girl friend after a drinking bout.

The trial judge, the Honorable Byron A. Milner, stated that if the Board is satisfied that society would be protected he would have no objection to a commutation of sentence. The district attorney of Philadelphia County stated that he had seen the applicant in the penitentiary and he was highly impressed by him. He felt that the applicant, a person completely rehabilitated, was an outstanding inmate and, therefore, he did not oppose the granting of clemency.

The institutional authorities state that the applicant's conduct has been very good and that when admitted he was illiterate and by courses of training and study he has become skilled as a machinist and welder. The Board believes that this applicant will become a law-abiding citizen and a credit to himself and his community. His entire attitude while in training has been that of a person who was planning for his release so that he could fill a useful place in society. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Thomas Hicks, E-3972, No. A-3253, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Thomas Hicks, convicted of assault and battery; aggravated assault and battery; rape, etc. in the Court of Oyer and Terminer of Philadelphia County on October 15, 1953 be commuted from 6 years to 2 years, 2 months expiring on December 15, 1955.

Our reasons for making this recommendation are as follows:

The applicant is twenty-three years of age, and was sentenced by the Oyer and Terminer Court of Philadelphia County for from 6 to 12 years in the Eastern State Penitentiary.

The applicant, together with two accomplices, had dates with two girls, minors, and in the course of association together, intercourse was had. All the parties concerned were juveniles at the time of the commission of offense.

The trial judge, the Honorable George G. Parry, did not express his opinion as to the merits of this application. The district attorney stated that under the circumstances he felt the sentence was excessive, although he is generally opposed to the granting of clemency in the matter.

The applicant has a minor record of three arrests and no convictions. During his incarceration, the institution reports that he has maintained an unblemished record, and has demonstrated his desire for self-improvement by his enrollment in educational courses.

The Board is in receipt of several letters from acquaintances of the applicant who, in these letters, speak most highly of the young man.

Therefore, the Board believes that if this young man is released he will have learned a salutary lesson, and he will no longer become involved in any criminal offense. The Board therefore, recommends commutation of this sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter A. Hilsbos, Sr., No. A-3298, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Walter A. Hilsbos, convicted of Arson in the Court of Oyer and Terminer of Bucks County, on September 26, 1933, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-seven years of age. He was sentenced by the Court of Oyer and Terminer for the crime of arson for from 1 to 5 years in the Bucks County Prison on September 26, 1933.

The applicant was released on parole on September 21. 1934, after serving his minimum sentence. The applicant was released from parole September 21, 1938, when his maximum sentence expired.

The offense for which this applicant was sentenced. was that of burning a small building seven feet by twelve feet, which was damaged by the fire to an extent of Fifty Dollars. The applicant carried no insurance on this building. The applicant denies that he set the building on fire because of a dispute with the owners of the premises. The applicant had been a real estate agent for the owner of the premises. The circumstances of the fire and the reason for it are conflicting.

The trial judge is deceased. However, the Honorable Edward G. Biester, expressed his opinion that the evidence justified the verdict. He further states that the conduct of the applicant since release from prison is without criticism. No opinion was expressed by the district attorneys' office of Bucks County.

Since the applicant's release he has resided in Bensalem Township, Bucks County. His wife is the Township Tax Collector and the applicant is the Deputy Collector, under Bond.

The applicant has been very active in local civic affairs and is a successful business man and law-abiding citizen. The Board believes that the mercy of the Commonwealth can well be extended and recommends a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Roddie Jones, 74625, No. A-2491, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Roddie Jones, convicted of rape and sodomy in the Court of Oyer and Terminer of Allegheny County on October 23, 1953, computed from February 25, 1955 be commuted from 2 years to 9 months, 20 days expiring on December 15, 1955.

Our reasons for making this recommendation are as follows:

The applicant is twenty-three years of age and was sentenced by the Oyer and Terminer Court of Allegheny County for rape and sodomy on October 27, 1952, and was placed on five years probation by the said Court.

In September, 1953, the applicant was arrested for rape, fornication and indecent assault, by the Oyer and Terminer Court of Beaver County for from 1½ to 15 years, whereupon the sentence of Allegheny County was revoked, and a sentence of 2 to 4 years, to commence at the conclusion of the Beaver County sentence, was imposed by the Allegheny County Court. On the 25th day of February 1955, the sentence of the Beaver County Court was commuted by the Board of Pardons, and the applicant is now serving the Allegheny County sentence, effective February 25, 1955, in the Allegheny County Workhouse.

The applicant, together with three accomplices, had a date with a 20 year old girl at which time these offenses took place.

The Allegheny County Workhouse Superintendent states to the Board that the applicant has conducted himself in a most satisfactory manner and has complied with all the rules and regulations, and that any consideration that the Board is inclined to bestow will meet with the full approval of the authorities of the Allegheny County Workhouse.

The Board is in receipt of a letter from the Honorable Ralph T. Bell, stating: "I am advised that his institutional record is good, and that he has a proper parole plan. If that is so, considering the length of time served by the applicant, I have no objections to your exercise of clemency in this matter." The district attorney's office believes the application premature. The Board, however, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Thomas Kane, E-4672, No. A-3095, September Session, 1955.

(Recommended October Session 1955.)

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Thomas Kane, convicted of sodomy in the Court of Oyer and Terminer and Quarter Sessions of Northumberland County on April 27, 1954 (credit or 7 days by order of court) be commuted from 3½ years to 1 year, 7 months, 20 days expiring on December 17, 1955 provided he be admitted to the Danville State Hospital for treatment.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age, and was sentenced for 3½ to 7 years in the Eastern State Penitentiary for the crime of sodomy. The applicant plead guilty to the charge, which involved two boys who had burglarized the applicant's home, and they, in turn, implicated the applicant in this offense.

The applicant had no prior criminal record, and the trial judge stated that he had no objection to the granting of clemency, but felt that the applicant should be com-

mitted to the Danville State Hospital and undergo psychiatric treatment. The Board has in its file a letter from the Danville State Hospital stating that they will treat the applicant as a patient upon his release.

The district attorney of Northumberland County, informed the parole agent that he had no objection to a commutation of the sentence.

The Board, in view of the fact that this applicant is to receive psychiatric treatment, recommends that the sentence be commuted so that he can receive the treatments.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Reubin A. Kaplan, No. A-3375, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Borad of Pardons recommend that the minimum sentence of Reubin A. Kaplan, convicted of false pretenses in the Court of Quarter Sessions of Philadelphia County on May 28, 1953, computed from October 25, 1955 be commuted from 2½ years to 1 month, 20 days expiring on December 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age, and was sentenced by the Quarter Sessions Court of Philadelphia County for from 2½ to 5 years in the Eastern State Penitentiary on charges of forgery, and for from 2½ to 5 years in the Philadelphia County Prison on charges of false pretenses, to be served consecutively. The applicant was transferred to the Philadelphia County Prison on October 25, 1955, upon expiration of his minimum sentence on charges of forgery.

This applicant opened a checking account in Philadelphia by depositing a check drawn on a New York Bank. The following day he withdrew a substantial sum from the Philadelphia bank. The check on the New York bank was worthless.

The applicant was dishonorably discharged from the United States Army because of absence without leave.

The district attorney of Philadelphia states that he is not opposed to the granting of clemency in this matter. The trial judge, the Honorable A. A. Nelson, expressed no opinion as to the merits of the application. The prison authorities tell us that he has maintained an unblemished record, and has taken educational work at the institution.

The Board is in receipt of a letter from a relative of the applicant who assures the Board that he will not only supervise the young man as to his conduct but will see that he has employment.

The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Lako, C-3695, No. A-3295, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Lako, convicted of larceny in the Court of Oyer and Terminer of Westmoreland County on February 14, 1955 be commuted from 2 years to 10 months expiring on December 14, 1955.

Our reasons for making this recommendation are as follows:

The applicant is twenty-eight years of age, and was sentenced by the Oyer and Terminer Court for from 2 to 4 years in the Western State Penitentiary for the crime of larceny. He was sentenced on February 14, 1955.

The applicant, together with several accomplices, broke into a storage shed of nearby mines and stole copper, and sold it in order to get money to finance a trip to Cleveland to get a job.

The trial judge, the Honorable Edward G. Bauer, stated to the Board that he had no objection to the commutation of the sentence of the applicant. Likewise, the District Attorney stated to the parole agent that he had no objection.

The applicant has no prior criminal record. He became involved with this group of young men in a series of larcenies. Only one of his accomplices, John Thomas, is in the penitentiary. The other four accomplices have all been released.

The Board believes that this young man has received a lesson which will prove a salutary one. During his imprisonment he has proved to be steady, cooperative, and profiting from his experience. The Board is of the opinion that, if released, with a proper parole plan which will be supervised by the Board of Parole, he will conduct himself in a proper manner. The Board, therefore, recommends that the sentence of the applicant be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter Lane, 4177-B, No. A-3264, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Walter Lane, convicted of burglary in the Court of Quarter Sessions of Bradford County on July 18,

1949, computed from May 22, 1949 be commuted from 10 years to 6 years, 8 months expiring on January 22, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 6, 1950.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application Joseph Lowrie, E-2712, No. A-3243, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Lowrie, convicted of armed robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on December 21, 1951, computed from September 26, 1951 to commuted from 6 years to 4 years, 2 months, 20 days expiring on December 16, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty years of age. He was sentenced for the crime of robbery armed with an offensive weapon for a term of six to twelve years. This applicant and three accomplices were arrested for robbing a pedestrian. He plead not guilty, but the Court rendered a verdict of guilty.

The district attorney of Philadelphia County stated he was not opposed to the granting of clemency in this matter. Likewise, the trial judge, the Honorable Joseph L. Kun, has stated he has no objection to the granting of commutation, provided he has served a sufficient portion of his minimum term.

During the applicant's confinement, he has conducted himself in a very satisfactory manner and is rated as very good. The penitentiary authorities report that they believe his criminal behaviour was the result of his antagonism to authority, induced by martial friction.

The applicant has served over two-thirds of his minimum sentence and the Board believes that further incarceration would not improve his behaviour, or attitude, and they, therefore, recommend that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Fred Lundy, E-521, No. A-2669, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Fred Lundy, convicted of assault, being armed with offensive weapon with intent to rob; carrying concealed deadly weapons in the Court of Quarter Sessions of Philadelphia County on September 20, 1948, computed from August 19, 1948 be commuted from 8 years, 8 months to 7 years, 4 months expiring on December 19, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-nine years of ago. He was sentenced, on September 20, 1948 to not less than eight and one-half years nor more than seventeen years. His offense was that he, and an accomplice, robbed taxicab drivers at the point of a gun.

The trial judge, the Honorable Byron A. Milner, stated that the applicant should serve his minimum sentence. The district attorney's office of Philadelphia County, however, stated it was not opposed to the granting of clemency. The assistant district attorney states that this applicant has an excellent prison record and he felt that it may be worthwhile to extend clemency at this time.

The prison authorities state that this applicant's rating is good. Most of his criminal behaviour appears to be the result of suggestions, by others. His accomplice, who received a lesser sentence, was paroled in February 1953.

The Board believes that this young man has been sufficiently punished and that the prospects for his future conduct as a law-abiding citizen are excellent, and, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Theodore Maleschuk, E-5010, No. A-3281, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Theodore Maleschuk, convicted of larceny and receiving stolen goods in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County

on December 1, 1954 be commuted from 1½ years to 1 year, 10 days expiring on December 1, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-three years of age. He was sentenced to not less than eighteen months nor more than three years for the crime of larceny and receiving stolen goods. His offense consisted of sending from Gimbel's Department Store, where he was employed, various items of merchandise to his co-workers, without paying for them.

The trial judge, the Honorable Edward J. Griffiths, stated to the Board that the present rehabilitation of the applicant would justify the exercise of clemency and he accordingly so recommends. The district attorney's office likewise is not opposed to the granting of clemency.

This was the applicant's first criminal offense. During his incarceration the authorities report that he has proved to be extremely capable and dependable, and shows ready acceptance of responsibility.

The Board believes that this young man, in order to make an impression upon his co-workers, overreached his goal of impressing his friends, and committed these offenses. The Board believes that the applicant has learned his lesson and that his future conduct will be free from any criminal activities. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John J. Martin, No. A-3103, June Session, 1955. (Recommended October Session, 1955).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John J. Martin, convicted of Bribery, Acceptance of a Bribe and Conspiracy in the Court of Quarter Sessions of Erie County on January 6, 1955 be commuted from 1 year to 11 months, 9 days, expiring on December 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age. He was sentenced by the Quarter Sessions Court of Erie County for from 1 to 2½ years for the crimes of conspiracy, bribery and the acceptance of bribes, in the Erie County Prison, on January 6, 1955.

The applicant was inspector of police in Erie and conspired with Stanley Swartz and Mayor Thomas Flatley to collect money from those persons operating gambling establishments in the City of Erie. This applicant, together with the two accomplices mentioned, set up a plan whereby gambling became a big business in the City of Erie. The applicant, and his accomplices, greatly benefited from this operation.

The trial judge, the Honorable Elmer L. Evans, states that the applicant is the only one of those convicted who seems to show any remorse with respect to any phase of the matter. Further, if the Board contemplates releasing him at the expiration of his minimum term, he would see no reason to not allow two weeks further reduction in order that he might be home for Christmas.

The district attorney, at the hearing, stated to the Board that he would recommend clemency. The Board has on file a petition from a large number of citizens of Erie, recommending that the Board extend their clemency. The present Inspector of Police of Erie, Frank G. Hoetzel, recommends that the Board extend clemency and states that the disgrace already incurred by this man, as well as the stain upon his reputation and standing in the community, is so obvious a lesson that the additional months of his sentence yet to be served cannot add to the lesson already learned by this individual. Letters are also on file from the Fraternal Order of Police of Erie County and other citizens.

The Board is informed that the applicant's wife is in a serious condition. The Board believes that this applicant will never overcome the disgrace which he brought upon himself, his family, his community and the police department. The fact that he knows, and all his friends and neighbors know, that he violated his oath of office and was punished, is a sentence far more severe than any court could impose. Up to the time of his incarceration he had the respect and regard of the community. He no longer holds that.

Further incarceration would serve no useful purpose. This applicant had no previous criminal record and this one serious offense has placed a stigma upon his otherwise impressive record. The Board, therefore, recommends that his sentence be commuted, effective December 15, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Michael Norton, 7347-A, No. 1655, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Michael Norton, convicted of murder in the second degree, in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on May 23, 1924, computed from January 15, 1940 be commuted from 20 years to 16 years, expiring on January 15, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 17, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter B. Riley, E-1089, No. A-2391, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Walter B. Riley, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 19, 1949, computed from April 16, 1949 be commuted from 10 years to 6 years, 8 months, expiring on December 16, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age. He was sentenced for the crime of robbery by the Philadelphia Court for from ten to twenty years on the nineteenth day of May, 1949.

His offense consisted of the holding up of two taxicab drivers, without the use of an offensive weapon. The district attorney's office states that they interviewed the applicant in the penitentiary and the interview was most favorable. That office felt that the applicant had rehabilitated himself and the district attorney, therefore, was not opposed to the granting of clemency.

The trial judge, the Honorable Eugene V. Alessandroni, expressed no opinion but relied upon the discretion of the Board.

The prison authorities state that this applicant has maintained a good record and that he has become a mature person showing a control of behaviour and emotions. The Board believes that this young man, who had no prior record, has learned his lesson the hard way and that in the future he will conduct himself as a law-abiding citizen and, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Schratzmeier, B-4480, No. 8380, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Schratzmeier, convicted of murder in the first degree in the Court of Oyer and Terminer of Blair County on March 14, 1935 be commuted from life imprisonment to 20 years, 9 months expiring December 14, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-nine years of age. He was sentenced to life imprisonment for the crime of murder in the first degree on March 14, 1935. He was convicted of shooting a neighbor over a stolen piece of lumber. The victim accused him of theft and over that accusation the fatal dispute and shooting culminated in the killing of the victim.

The trial judge is deceased and the present judge, the Honorable John M. Klepser, offered no comments. The district attorney's office reiterated its position taken in December 1952 that they have no reason to oppose this application if the applicant has a satisfactory parole plan, and that his institutional record indicates that he is ready to be returned to society.

The penitentiary authorities report that the applicant in over twenty years of incarceration has never had a misconduct report against him, and that he does not appear to be embittered by his long incarceration.

The applicant is an expert repairman in radio and radio equipment, and it is reported that he is one of the best workers in that field.

The board believes that this applicant, with the training in the electrical work and his generally fine outlook, is ready for return to society, his crime being one of passion with no background of criminal record, and therefore recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Leon Taylor, C-9485, No. 8360, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Leon Taylor, convicted of murder in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 29, 1934 be commuted from life imprisonment to 21 years, 10 months, 20 days expiring on December 19, 1955.

Our reasons for making this recommendation are as follows:

This applicant is sixty-six years of age. He was sentenced to life imprisonment for the crime of murder on the twenty-ninth day of January, 1934. His crime was that of shooting his girl friend over the possession of a ring which he had given to her and now wanted returned.

The trial judge, the Honorable Eugene V. Alessandroni, states that he has no opinion to express as to the merits of the case but relies upon the discretion of the Board.

The office of the district attorney of Philadelphia County stated that it was not opposed to the granting of clemency.

The penitentiary authorities report that this applicant has an excellent record and has demonstrated thrift by

saving a considerable sum of money. His conduct has been excellent and he has held a position of trust in the institution for over twelve years. They further state that the applicant is a mature person and shows good control of his emotions and who readily accepts responsibility.

The Board believes that this applicant, who committed a crime of passion, has rehabilitated himself and that if released he will live a law-abiding life for the rest of his years. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of LeRoy Treible, E-4556, No. A-2970, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of LeRoy Treible, convicted of burglary of railroad cars in the Court of Quarter Sessions of Monroe County on May 3, 1954, computed from March 20, 1954 be commuted from 2½ years to 1 year, 9 months expiring on December 20, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-nine years of age. He was sentenced by the Quarter Sessions Court of Monroe County for the offense of burglary of railroad cars on May 3, 1954 for from 2½ to 5 years.

The applicant plead guilty to robbing railroad cars of merchandise. The applicant claims that his offense was caused by lack of work and the starving condition of his family.

The trial judge, the Honorable Fred W. Davis, stated to the parole agent that he would rely upon the discretion of the Board. Likewise, the district attorney's office, when interviewed by the parole agent, stated that he was not opposed to the granting of clemency.

This applicant's accomplice, Caleb Martin, was given a short jail sentence and has been released. The applicant had no previous record and during this imprisonment has maintained an unblemished disciplinary record. He is now in a position of trust on the prison farm and is doing an outstanding job.

The pentitentiary authorities report that he has demonstrated excellent ability to make adequate adjustments. The Board believes that this young man, who committed an offense for his starving children, has been sufficiently punished and further incarceration would serve no useful purpose. His family, on account of the flood in the area in which they live, is in dire need of his help. The Board, believing that this young man will not again offend the rules of society, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Thomas Wildermuth, 573-D, No. 6372, October Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Thomas Wildermuth, convicted of armed robbery in the Court of Oyer and Terminer of Allegheny County on July 5, 1940, computed from June 8, 1940 be commuted from 20 years to 15 years, 7 months expiring on January 8, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 8, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Willie Wilson, E-1267, No. A-578, September Session, 1955. (Recommended October Session, 1955).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Willie Wilson, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 20, 1949, computed from June 25, 1949 be commuted from 10 years to 6 years, 5 months, 20 days expiring on December 15, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age. He was sentenced for from 10 to 20 years for the crime of robbery.

The applicant, together with an accomplice, was found guilding of holding up taxicabs in the City of Philadelphia. The history of these offenses involves several taxi-

cabs in which the driver was threatened with bodily injury if he made an outcry.

The applicant was subsequently confined at the State Penitentiary at Rockview, and at the time of the riots he cooperated to the fullest extent with he prison officials. On three different occasions, he gave to the officials valuable information which prevented serious trouble in the institution. As a result of his cooperation, he has had his life threatened by the inmates, and has been under the surveillance of the guards in order to prevent any bodily injury to him. He was placed as a guard on the main gate of the institution where he would be removed from the prison population during the day, and at nighttime he was placed in a maximum security cell—all for his protection.

The instituion states that his conduct has been exemplary. The applicant was transferred recently to Pennsylvanina State Institution at Huntingdon for his protection. The trial judge, the Honorable L. Stauffer Oliver recommends commutation. Likewise, the district attorney states he was not opposed to commutation. A proper parole plan will be provided, and the Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Christopher F. Brennen, No. 3331, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Christopher F. Brennen, convicted of establishing and maintaining gambling establishment in the Court of Quarter Sessions of Montgomery County, on January 18, 1952, be pardoned.

Our reasons for making this recommendation are as follows:

The applicant is sixty-four years of age, and was sentenced by the Quarter Sessions Court of Montgomery County for the crime of establishing and maintaining a gambling establishment, and was sentenced on the 18th day of January 1952 to a fine of $300.00, and ten days in the Montgomery County Prison.

The applicant was an official in the Caates-Wafer Post Home Association, V.F.W. 840. A raid was made by the police officials on the home, and they found in storage, on the premises of Post Association a number of slot machines.

The applicant, together with three other officers of the Association, was arrested and sentenced.

The applicant had no prior criminal record, and was and is now employed by the James Lees and Sons Mills, Bridgeport, Pa. Upon the release of the applicant, he resumed his work where he had been employed for over thirty-five years.

The applicant is still the Secretary of the Home Association. The applicant is requesting a pardon for the reason that he was arrested and sentenced only as an official of the Association, and had nothing to do with the operation, nor received any of the profits from these gambling machines. The applicant is anxious to have his name cleared, and the blemish of this offense removed from his record.

The Board believes that this applicant, together with the other members of the official staff of the Home Association, should have their records cleared and, therefore, recommends that the clemency of the Commonwealth be extended to them, and a pardon granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Richard J. Briney, C-2792, No. A-2760, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Richard J. Briney, convicted of larceny, receiving stolen property; burglary of motor vehicle, larceny in the Court of Quarter Sessions of Westmoreland County on August 25, 1952, computed from July 12, 1952 be commuted from 5 years to 3 years, 5 months, expiring on December 12, 1955.

Our reasons for making this recommendation are as follows:

The applicant is twenty-four years of age and was sentenced by the Oyer and Terminer Court of Westmoreland County for the crime of larceny, receiving stolen property, and burglary of a motor vehicle for from 5 to 10 years in the Western State Penitentiary.

The applicant, together with two accomplices, stole equipment and tools from a state highway garage and also broke into business places throughout Westmoreland-Allegheny Counties.

The applicant was sentenced for his crimes in Allegheny County for from 2½ to 5 years, to run concurrent with the Westmoreland County sentence.

One of his accomplices received a suspended sentence; another was sent to Morganza; the third is still imprisoned in the Western State Penitentiary. The applicant has no prior record except a minor case of disorderly conduct.

The trial judge, the Honorable Richard D. Laird, recommends that he serve his minimum sentence. The district attorney of Westmoreland County states he has no objecion to the commutation of the minimum sentence.

The applicant has already served the minimum sentence of Allegheny County, and is now serving on the Westmoreland County sentence.

The applicant had no prior record and his institutional conduct has been excellent. He is now learning the barbering trade and printing trade, and if released will be qualified to follow these trades. Therefore, the Board recommends commutation.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Willie Brown, E-2709, No. A-2779, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Willie Brown, convicted of robbery in the Court of Oyer and Terminer of Philadelphia County on December 21, 1951, computed from September 28, 1951 be commuted from 6 years to 4 years, 2 months, 20 days, expiring on December 18, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age, and was sentenced by the Oyer and Terminer Court of Philadelphia County for from 6 to 12 years in the Eastern State Penitentiary for the crime of robbery.

The applicant, together with three accomplices, was involved in an armed robbery of a pedestrian on the streets of Philadelphia. They compelled the victim to accompany them to a rooming house where on the third floor of said house there was tied to a bed, a woman.

The district attorney stated that the story as given by the victim was a fantastic one, and there is a serious question as to the trust of the facts which were presented to the trial court. The applicant has steadily denied his participation in this holdup, and plead not guilty, but was found guilty by the jury. The three accomplices each received a sentence of 6 to 12 years in the Eastern State Penitentiary.

The trial judge, the Honorable Joseph L. Kun, states that he is relying upon the Board for the exercise of their best judgment in the matter.

The accomplice, James D. Holmes, has been recommended for commutation by the Board. The other accomplice, Joseph Lourie, has been recommended for commutation, and the third accomplice, Joel T. Johnson, had his sentence commuted in February, 1955.

The applicant's prior record was for minor offenses. The Board believes that if released this applicant will conduct himself in a proper and law-abiding manner, and, therefore, recommends commutation.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Michael Caserta, 100125, No. A-3272, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Michael Caserta, convicted of lottery and conspiracy, in the Court of Quarter Sessions of Delaware County on July 14, 1954, computed from March 25, 1955 be commuted from 17 months to 11 months expiring on February 25, 1956.

Our reasons for making this recommendation are as follows:

The applicant is forty-one years of age, and was sentenced to pay a fine of One Thousand Dollars and for from 17 months to 35 months in the Delaware County Prison.

The applicant and his accomplice operated a business of selling numbers, and the facts as brought out at the trial supported the indictments. The accomplices received minor sentences, and are now on parole under the Delaware County Probation Department.

The Warden of the Delaware County Prison states that the applicant has made a good adjustment, and is now a trusty in the institution.

The trail judge, the Honorable William R. Toal, felt that the applicant should serve his minimum sentence. Likewise, the district attorney's office recommended service of his minimum sentence. However, the Board felt that he has served quite a substantial portion of his sentence for this type of offense, and took into consideration the fact that his accomplices, who were equally guilty, received lesser sentences and have been released from the Delaware County Prison.

The Board, therefore, recommends that his sentence be commuted to a minimum of 11 months, effective from the date of imprisonment, to wit: March 25, 1955.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,

BOARD OF PARDONS

In re application of Alvin Gaines, E-5116, No. 3312, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Alvin Gaines, convicted of assault and robbery, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 6, 1955, computed from November 20, 1954 be commuted from 2 years to 1 year, 1 month expiring December 20, 1955.

Our reasons for making this recommendation are as follows:

This applicant is twenty-seven years of age, and was sentenced by the Court for from 2 to 5 years for the crime of robbery and assault.

This applicant maintains he was in a tavern when the victim came into the barroom waving a revolver, and he, after some argument, took the gun from the victim, his purpose being to avoid any shooting affray.

The trail judge, Honorable Gerald F. Flood, stated that justice would be served if the minimum sentence of the defendent were commuted and he were released. The judge expressed the thought that the after-discovered-evidence raised some doubt as to the guilt of the applicant.

The district attorney stated that the after-discovered evidence could not be used for a new trail as the term

had expired, and so he felt that the mercy of the Commonwealth could well be granted in this instance. The district attorney was not opposed to the granting of commutation.

The Board, in view of all the facts, recommend that the minimum sentence of this applicant be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph L. Goodman, No. A-3334, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Joseph L. Goodman, convicted of establishing and maintaining gambling establishment in the Court of Quarter Sessions of Montgomery County, on January 18, 1952, be pardoned.

Our reasons for making this recommendation are as follows:

The applicant is fifty-eight years of age, and was sentenced by the Quarter Sessions Court of Montgomery County for the crime of establishing and maintaining a gambling establishment and sentenced on the 18th day of January, 1952 to a fine of $300.00 and ten days in the Montgomery County Prison.

The applicant was an official in the Caates-Wafer Post Home Association, V.F.W. 840. A raid was made by the police officers on the home, and they found in storage on the premises of Post Association a number of slot machines. The applicant, together with three other officers of the Association, was arrested and sentenced.

The applicant had no prior criminal record. The applicant is still an officer of the Home Association.

The applicant is requesting a pardon for the reason that he was arrested and sentenced only as an official of the Association, and had nothing to do with the operation, nor received any of the profits from these gambling devices. The applicant is anxious to have his name cleared, and the blemish of this offense removed from his record.

The applicant operates his own business of erecting and constructing buildings.

The Board believe that this applicant, together with other members of the official staff of the Home Association, should have their records cleared and, therefore, recommends that the clemency of the Commonwealth be extended to them, and a pardon granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George Elmer Jackson, D-3264, No. 9702, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of George Elmer Jackson, convicted of murder in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Lackawanna County on July 8, 1938, computed from November 16, 1937 be commuted from life imprisonment to 18 years, 1 month expiring on December 16, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age, and was sentenced by the Court to life imprisonment in the Eastern State Penitentiary for the crime of murder in the first degree.

The applicant struck his victim over the head with a club, and robbed him of $2.00. The victim subsequently died.

The trial judge, the Honorable T. L. Hoban, stated to the Board that the applicant was only seventeen years of age when he committed this offense. The Judge stated: "However, due to the youth of the boy, and his background experience, I was of the opinion at the time sentence was imposed that a life sentence was justified, with the hope that at some future time he might be restored to society." The question now is: "Has the applicant become sufficiently stable and emotionally well-balanced to be considered a responsible individual?" The Board believes that he has.

The district attorney did not give us the benefit of his recommendation.

The prison authorities state that he has made an excellent institutional record for adjustment and attitude. His vocational report indicates an outstanding work record, and success in a job of trust and responsibility. He comes highly recommended by the institutional staff.

The Board has been assured by the Parole Board that his parole plan upon release will be given close attention, and he will be under the supervision of the Board of Parole for life. The Board, therefore, recommends commutation.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Lattanzio, E-4706, No. A-3319, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Lattanzio, convicted of larceny, burglary, receiving stolen goods, in the Court of Quarter Sessions of Philadelphia County on August 3, 1954, computed from July 14, 1954 be commuted from 2½ years to 1 year, 5 months expiring on December 14, 1955.

Our reasons for making this recommendation are as follows:

The applicant, together with an accomplice, entered the home of the victim. The victim was assaulted, whereupon the applicant and his accomplice, fled the scene. They were later arrested for the possession of burglary tools.

The trial judge, the Honorable Edward J. Griffiths, stated that he had no recommendation to make with respect to the application. The district attorney stated at the hearing that he had interviewed the applicant in the penitentiary, and that he was favorably impressed, as he had improved himself very much, and he was, therefore, not opposed to the granting of the commutation.

The institution authorities report that he has maintained an unblemished record, and there has been a substantial increase in his ability to resist anti-social impulses. The parole plan of this applicant will be carefully supervised by the Board of Parole.

The Board, therefore, recommends that this applicant's sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Russel N. Lukens, Sr., No. A-3332, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Russell N. Lukens, Sr., convicted of establishing and maintaining gambling establishment in the Court of Quarter Sessions of Montgomery County, on January 18, 1952 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is sixty-three years of age, and was sentenced by the Quarter Sessions Court of Montgomery County for the crime of establishing and maintaining a gambling establishment, and was sentenced on the 18th day of January 1952 to a fine of $300.00 and ten days in the Montgomery County Prison.

The applicant was an official of the Caates-Wafer Post Home Association, VFW 840. A raid was made by the police officials on the home, and they found in storage, on the premises of Post Association, a number of slot machines. The applicant, together with three other officers of the Association, was arrested and sentenced.

The applicant had no prior criminal record.

The applicant is requesting a pardon for the reason that he was arrested and sentenced only as an official of the Association. He had nothing to do with the operation, nor received any of the profits, from these gambling devices. The applicant is anxious to have his name cleared, and the blemish of this offense removed from his record.

The applicant was a cost-clerk with the Lanston Mono-Type Machine Company but retired in 1953. He resides in New Jersey, and bears an excellent reputation in his community.

The Board believes that this applicant, together with other members of the official staff of the Home Association, should have their records cleared and, therefore, recommends that the clemency of the Commonwealth be extended to them, and a pardon granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Theodore McClendon, D-7154, No. A-1173, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Theodore McClendon, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 13, 1943, computed from April 19, 1943 be commuted from 25 years to 12 years, 8 months expiring on December 19, 1955.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age, and was sentenced for from 25 to 50 years in the Eastern State Penitentiary for the crime of robbery.

This applicant and a number of accomplices were involved and participated in a series of robberies. Their procedure seemed to be holding up pedestrians and stealing money. The accomplices have all been paroled and their sentences commuted, in some instances, by the Board. Only one of the accomplices is now in the penitentiary, and he is serving a life sentence for a separate crime.

The trial judge, the Honorable Harry S. McDevitt, is deceased and the President Judge, the Honorable Joseph L. Kun, said that he would rely upon the Board for the exercise of their best judgment. The district attorney stated that he was not opposed, because he felt the sentence was most severe for this type of crime of which this applicant was guilty.

The applicant has a prior criminal record of minor nature, and this sentence is the most severe, by far, that he has ever served.

The penitentiary authorities report that he has maintained a splendid disciplinary record, and that he has increased in his ability to avoid anti-social impulses. It was stated to the Board that this man has rehabilitated himself, and has at last reached a stage of maturity. He has been assured of employment, if released, and the Board of Parole will supervise his plan. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Powell, D-7471, No. 9691, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Powell, convicted of murder in the first degree in the Court of Oyer and Terminer of Philadelphia County on October 19, 1943 be commuted from life imprisonment to 12 years, 2 months expiring on December 19, 1955.

Our reasons for making this recommendation are as follows:

The applicant is thirty-seven years of age, and was sentenced by the Oyer and Terminer Court of Philadelphia County to life imprisonment in the Eastern State Penitentiary for the crime of murder.

The applicant came home on a furlough from the Army. The wife was absent from the home at a party. The applicant went to that home and requested her to return to their home so he could pack his clothing to return to camp. The applicant had discovered that during his absence his wife became acquainted with a number of men, the photographs of which were on her bureau. An argument ensued during which a revolver found in the bureau drawer of his wife was used by the applicant, resulting in her being shot and killed. The applicant plead guilty to the crime, and was sentenced as stated.

One of the trial judges, the Honorable Gerald F. Flood, had no recommendation to make. However, the Honorable Raymond MacNeille stated to the Board that he relied upon the Board's best judgment in this matter. He stated in a letter to the Board in February 1955 that if they believe the man would not menace society, he would would have no objection if the sentence was commuted.

The district attorney stated that he was not opposed, as, under the facts, this crime was no higher than murder in the second degree, it being a crime of passion, and the applicant has now served more than the minimum for murder in the second degree. The Board, therefore, recommends commutation.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter Shaffer, No. A-3333, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Walter Shaffer, convicted of establishing and maintaining gambling establishment in the Court of Quarter Sessions of Montgomery County, on January 18, 1952 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is sixty-two years of age, and was sentenced by the Quarter Sessions Court of Montgomery County for the crime of establishing and maintaining a gambling establishment, and was sentenced on the 18th day of January 1952 to a fine of $300.00 and ten days in the Montgomery County Prison.

The applicant was an official in the Caates-Wafer Post Home Association, VFW 840. A raid was made by the police officials on the home, and they found, in storage, on the premises of Post Association, a number of slot machines. The applicant, tgoether with three other officers of the Association, was arrested and sentenced.

The applicant had no prior criminal record.

The applicant is requesting a pardon for the reason that he was arrested and sentenced only as an official of the Association, and that he had nothing to do with the operation, nor received any of the profits, from these gambling devices. The applicant is anxious to have his name cleared, and the blemish of this offense removed from his record.

The applicant has been Steward of the Post Home since 1938 and still continues in that office.

The Board believes that this applicant, together with other members of the official staff of the Home Association, should have their records cleared and, therefore, recommends that the clemency of the Commonwealth be extended to them, and a pardon granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Wilkins, C-2868, No. A-3371, November Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Wilkins, convicted of murder, second degree in the Court of Quarter Sessions of Philadelphia County on October 15, 1946, computed from August 18, 1946 be commuted from 10 years to 9 years, 4 months expiring on December 18, 1955.

Our reasons for making this recommendation are as follows:

The applicant is thirty-eight years of age, and was sentenced by the Oyer and Terminer Court of Philadelphia for from 10 to 20 years in the Eastern State Penitentiary for the crime of murder in the second degree.

The applicant had been drinking, and returned to his home late in the afternoon. During the evening they entertained another couple. This applicant and his wife went to the kitchen to prepare sandwiches late in the evening. An argument took place between the applicant and his wife over the attention which the applicant's wife was paying to one of the guests. The applicant grabbed a kitchen knife, and stabbed his wife to death.

The trial judge, the Honorable Lewis E. Levinthal, expressed no opinion as to the merit of this application. The district attorney is not opposed to the granting of this application, stating before the Board that this offense was not premediated.

The applicant has served almost ten years of his minimum sentence, and has had an excellent institutional record. This applicant had no prior arrests or convictions.

The Board is persuaded that he will conduct himself in a proper and law-abiding manner upon release, and that he will be under the supervision of the Board of Parole for many years in the future.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Matthew Altomare, 3451, No. A-2638, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Matthew Altomare, convicted of burglary in the Court of Quarter Sessions of Philadelphia County on February 23, 1950, computed from December 28, 1952 be commuted from 5 years to 3 years, 20 days expiring on January 18, 1956.

Our reasons for making this recommendation are as follows:

Matthew Altomare is thirty-seven years of age, and was sentenced for from 5 to 10 years on charges of burglary.

This applicant was convicted of entering a business place in Germantown, with an accomplice, and burglarizing that establishment of a quantity of merchandise. The merchandise was found in the home of the accomplice. The applicant denied that he was involved in this offense, and stated that the accomplice perpetrated the crime and then accused him of complicity.

The trial judge, the Honorable Byron A. Milner, recommends clemency, stating that the applicant has served sufficient time in prison, and that he believes that it is safe to release him to society. Likewise, the District Attorney recommends clemency, and stated that there was every possibility that the applicant was not guilty of this offense.

The institutional record of this applicant has been satisfactory, and from every indication it appears to the Board that the applicant has been rehabilitated, and that it is safe to return him to society. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert W. Behl, E-5247, No. A-3364, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Robert W. Behl, convicted of robbery in the Court of Quarter Sessions of Philadelphia County on December 28, 1954, computed from December 9, 1954 be commuted from 2 years to 1 year, 1 month, 10 days expring on January 19, 1956.

Our reasons for making this recommendation are as follows:

This applicant is nineteen years of age, and was sentenced by the Oyer and Terminer and Quarter Sessions Court of Philadelphia County for from 2 to 5 years for the crime of robbery.

This applicant's offense was holding up a driver of an automobile and attempting to take the driver's wallet. The victim had offered to drive the applicant home. The applicant, who was intoxicated, attempted this holdup.

The applicant has no prior record and it is felt that the circumstances of the whole unfortunate crime were induced more by alcohol than by a desire to obtain money.

The trial judge, the Honorable Joseph L. Kun, is not in favor of releasing the applicant. However, the district attorney of Philadelphia County is not opposed to the granting of clemency as the applicant has an excellent record in the institution, and appears to be very contrite, and resolves to lead a good life upon release to society.

Since this was applicant's only offense the Board believes that this young man will behave himself in the future and, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Corliss Blondheim, E-3371, No. A-3356, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Corliss Blondheim, convicted of burglary and larceny in the Court of Oyer and Terminer of Susquehanna County on November 17, 1952, computed from September 17, 1952 be commuted from 4 years to 3 years, 4 months expiring on January 17, 1956.

Our reasons for making this recommendation are as follows:

This applicant, who is fifty-nine years of age, was sentenced for from 4 to 12 years in the Eastern State Penitentiary for the crime of burglary and larceny.

The offense consisted of entering a dwelling and stealing some of the personal and household furnishings contained therein. The applicant was accompanied by two accomplices; one was sent to Pennsylvania Industrial School and other to the County Jail.

The trial judge, the Honorable Edward P. Little, is opposed to clemency. However, the district attorney stated that he was relying on the discretion of the Board and interposes no objection.

The applicant has no prior record, and this is his first offense.

The penitentiary reports that the applicant has a satisfactory record, and states that as he is a first offender he is not likely to profit from further incarceration.

At present, he is employed in a position of trust at Graterford.

The Board, therefore, recommends that the sentence of this man be commuted, believing that he will no longer be an offender, and will live a law-abiding life.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph T. Buranits, Jr., No. A-580, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph T. Buranits, convicted of larceny, armed robbery, carrying concealed deadly weapons and pointing deadly weapon in the Court of Quarter Sessions of Schuylkill County on September 6, 1949 be commuted from 12 years to 6 years, 4 months expiring on January 6, 1956.

Our reasons for making this recommendation are as follows:

This applicant, who is twenty-seven years of age, was sentenced for from 6 to 12 years in the Eastern State Penitentiary for the crimes of armed robbery, larceny, and carrying concealed deadly weapons and pointing deadly weapon.

The applicant's offense consisted of holding up a garage attendant, stealing an automobile, and subsequently stopping another automobile and robbing the occupants thereof.

The sentence of the applicant was commuted by the Board of Pardons at their September Session 1951, and he was released from the penitentiary on the 20th day of December, 1951.

The applicant returned to New York City, where he is employed as a machinist by Plastic-Ware, Inc., where his average salary is $127.00 a week. Since his release he has led a law-abiding life, and has married and resides with his wife in New York City.

The Board of Parole of Pennsylvania reports that they have no objection to the commutation of his sentence. The New York State Parole Board reports that his conduct and behaviour has been satisfactory.

The applicant has demonstrated that he is a hard-working and reliable person, and has been prompt in his obligations regarding his parole supervision and that he is certainly ready for release from supervision.

The trial judge has no obligation. The Board recommends his maximum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Chandler, 9371-C, No. 7126, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Chandler, convicted of murder, second degree in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on October 3, 1939, computed from June 27, 1939 be commuted from 20 years to 16 years, 7 months expiring on January 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 27, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Samuel A. Cohan, No. A-3352, September Sessions, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session. the undersigned members of the Board of Pardons recommend that Samuel A. Cohan, convicted of receiving stolen goods in the Court of Quarter Sessions of Philadelphia County, on February 25, 1954 be pardoned.

Our reasons for making this recommendation are as follows:

The applicant is sixty years of age, and was sentenced by the Quarter Sessions Court of Philadelphia County to pay a fine of $500.00, and was placed on probation for a period of two years, as of February 25, 1954.

The applicant conducted a business in the City of Philadelphia known as the Empire Smelting Company which purchased old gold and jewelry. This applicant had been in business for many years, and always conducted himself and his business according to the highest standards of conduct. The facts of this case are fantastic, in that the applicant was accused of buying stolen old gold and jewelry from a stranger, and that was specifically the business in which this applicant was engaged.

The applicant kept accurate records of all purchases,

with descriptions of the goods purchased, and the name and address of the sellers. This record was open to police inspection at all times, and his records substantiated his plea of not guilty.

The applicant holds a well-regarded position in the jewelry business, and is anxious that this only blot on his personal and business record be removed.

The district attorney of Philadelphia County states that he did not believe that this was a proper conviction, and that the defendant suffered during the trial by a personality conflict between his counsel and trial district attorney. Therefore, he did not oppose the granting of pardon, which the Board recommends.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES E. FINNEGAN,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Anthony Dimento, 6695-C, No. 5989, December Sessions, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Anthony Dimento, convicted of being armed to rob; burglary in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 2, 1939, computed from April 18, 1939 be commuted from 30 years to 16 years, 9 months, expiring on Janaury 18, 1956.

Our reasons for making this recommendation are as follows:

The Board of Pardons has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 18, 1969.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES E. FINNEGAN,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Louis Feingold, No. A-3257, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Louis Feingold, convicted of bookmaking and poolselling in the Court of Quarter Sessions of Philadelphia County, on November 30, 1948 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-one years of age and was sentenced for the offense of bookmaking and pool selling. He plead guilty and received a sentence of $200.00 fine and costs.

The applicant's offense was that of receiving bets on horse races. Since his sentence of 1948, he has not become involved in any gambling operation.

At present, he owns and operates a business of cashing checks in the City of Philadelphia, and has three branches in various parts of the City.

Our parole agent reports that his business reputation is most excellent, and that he is a very stable and reliable individual.

The trial judge, the Honorable Francis Shunk Brown, Jr., and the district attorney are not opposed to the granting of a pardon in this case.

The Board believes that this business man, who is now conducting himself in a most satisfactory manner, is deserving of the clemency of the Commonwealth, and, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Peter Gallas, 5868-D, No. 8981, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Peter Gallas, convicted of armed robbery in the Court of Oyer and Terminer of Allegheny County on June 8, 1945, computed from April 30, 1945 be commuted from 16 years to 10 years, 9 months expiring on January 30, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 30, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Melvin Lynn Gress, No. A-3361, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Melvin Lynn Gress, convicted of receiving stolen goods in the Court of Quarter Sessions of Lancaster County on February 4, 1955 be commuted from 1½ years to 11 months, 10 days expiring on January 14, 1956.

Our reasons for making this recommendation are as follows:

This applicant, who is thirty-one years of age, was sentenced to pay a fine of One Hundred Dollars and to serve a term of not less than 18 months nor more than 36 months in the Lancaster County Prison for the offense of receiving stolen goods.

The applicant had been a carpenter, then decided to open a restaurant, and was induced to purchase a large quantity of cigarettes by two strangers. The opinion was expressed by the district attorney of Lancaster County that the applicant was ignorant of business practices, and became an easy prey of the two men who sold him cigarettes.

The trial judge, the Honorable Joseph Wissler, is opposed to the granting of clemency. The district attorney, William Storb, stated to the Parole Agent that he felt the applicant received a heavy sentence, and, therefore, he did not oppose the granting of clemency.

The Warden of the Lancaster County Prison said: "I am satisfied that this man be given another chance."

The applicant has a satisfactory sponsor, and has assurance of employment that will support his wife and three small children, who are now on public assistance.

The applicant has served a substantial portion of his minimum sentence, and the Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Raymond Gumby, E-247, No. A-3369, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Charles Raymond Gumby, convicted of burglary and robbery in the Court of Oyer and Terminer of Dauphin County on March 31, 1948, computed from March 2, 1948 be commuted from 20 years to 7 years, 10 months, 20 days expiring on January 22, 1956.

Our reasons for making this recommendation are as follows:

This applicant, who is thirty-one years of age, was sentenced for the crime of burglary for from 20 to 40 years in the Eastern State Penitentiary.

The offense consisted of entering three apartments in the City of Harrisburg, occupied by women and burglarizing the apartments. His presence in these apartments was discovered by the occupants. These individuals were badly frightened, but no harm nor threats were made against them by the applicant.

The trial judge, the Honorable Paul Rupp, is no longer on the bench, and the acting president judge, the Honorable William H. Neely, states that under the circumstances the matter of clemency should be left to the discretion of the Pardon Board.

The district attorney, Huette F. Dowling, stated that he did not oppose commutation of the sentence as the applicant has an outstanding record in the penal institution, and in view of the fine record he has made, clemency should be granted.

The penitentiary authorities report that this applicant has made every effort to rehabilitate himself. The Board believes that, if released to society, he will not again become an offender.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward John Kijewski, No. A-3354, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Edward John Kijewski, convicted of entering with intent to steal-larceny in the Court of Quarter Sessions of Philadelphia County, on April 22, 1935, be pardoned.

Our reasons for making this recommendation are as follows:

This man is thirty-seven years of age, and was sentenced for the crime of larceny and attempted larceny to a probation term of five years on the 22nd day of April, 1935.

The applicant, together with three accomplices, all of whom were boys in their early teens, crawled over a roof to the Keebler Baking Company, and took cans of tape. They entered the Baking Company through an open winodw, and were searching for baked goods.

Since this offense, the applicant has never been involved in any further criminal activity. The last twenty years he has led an exemplary life, has married and has a family of three children.

Since this applicant's discharge from the United States Army he has been steadily employed as a truck driver, steel worker and a welder.

The parole agent reports that the applicant enjoys an excellent reputation in the community, and that he is a good husband, and an adequate provider for his family. His work history indicates that he is a stable individual.

The Honorable Joseph L. Kun, president of the Court, stated that he had no knowledge of the facts of the case, as the trial judge, now deceased, was the Honorable Otto R. Heiligman.

The applicant has an application with the Philadelphia Police Department, and is desirous of having his record cleared so that he may become eligible for an appointment to the Police Force.

The Board has no objection and, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVEV BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John A. Kocevar, E-4620, No. A-3123, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John A. Kocevar, convicted of burglary, in the Court of Oyer and Terminer of Dauphin County on June 1, 1954, computed from April 13, 1954, be commuted from 2½ years to 1 year 9 months, expiring on January 13, 1956.

Our reasons for making this recommendation are as follows:

This applicant, who is twenty-one years of age, was sentenced for from 2½ to 5 years for the offense of burglary.

The applicant and two accomplices were involved in a series of burglaries in and about Harrisburg. The total loot of all these eight or ten burglaries amounted to less than One Thousand Dollars.

The applicant had no prior record and at the commission of these offenses was a young man of about nineteen years of age.

The trial judge, the Honorable Walter Sohn, felt the applicant should serve his minimum sentence. However, district attorney Huette F. Dowling stated that he was not opposed to clemency for this applicant, as he believes he has been sufficiently punished.

The penitentiary record of this young man is satisfactory. He has made a marked improvement and appears to be a mature person, satisfactory for release to society.

This was applicant's first offense against society. One of his accomplices, John Iskric, who received a similar sentence, was recommended for a commutation of his sentence by the Board and it was granted by the Governor, effective February 1, 1956.

Since this applicant has a satisfactory record in the institution, and since one of his accomplices has been released, the Board recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ben McClendon, 795-D, No. 6525, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Ben McClendon, convicted of murder, in the second degree, in the Court of Oyer and Terminer of Washington County on November 18, 1940, computed from May 25, 1940 be commuted from 20 years to 15 years 8 months expiring on January 25, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until May 25, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Miorelli, 1037-D, No. 4127, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph Miorelli, convicted of murder in the first degree, in the Court of Oyer and Terminer and Quarter Sessions of Luzerne County on January 13, 1928, be commuted from life imprisonment to 28 years expiring on January 13, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The

Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Bartholemew Nelson, E-1652, No. 2446, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Bartholemew Nelson, convicted of robbery, etc., in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 3, 1950, computed from April 17, 1950, be commuted from 8 years to 5 years 11 months expiring on January 17, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age and was sentenced for the crime of robbery for from 8 to 16 years in the Eastern State Penitentiary.

The offense consisted of holding up a grocery store in Philadelphia, together with several accomplices, and stealing a sum of money from the proprietor.

The trial judge, the Honorable Edward P. Little, stated that if the Board felt it advisable to grant clemency as requested, he had no objection.

The district attorney of Philadelphia County stated that he was not opposed to the granting of clemency.

The institution states that this applicant has had a satisfactory record, and is not a hardened criminal in any way.

The applicant had no prior record, and the Board believes that he has been sufficiently punished. Therefore, it recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Augustus Norton, 4755-D, No. 7853, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due notice, in open session, the undersigned members, of the Board of Pardons recommend that the maximum sentence of Augustus Norton, convicted of robbery, together with other persons, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 2, 1938, computed from February 24, 1938 be commuted from 60 years to 17 years, 11 months, expiring on January 24, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 25, 1970.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Michael Palumbo, 9267-C, No. 3819, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due notice, in open session, the undersigned members, of the Board of Pardons recommend that the maximum sentence of Michael Palumbo, convicted of assault and battery; aggravated A&B; A&B with intent to ravish; attempted rape, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on June 22, 1942, computed from June 10, 1942, be commuted from 15 years to 13 years 7 months expiring on January 10, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 10, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.

(Sgd) JAMES A. FINNEGAN,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Rocco Trallo, 5425-D, No. 7927, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Rocco Trallo, convicted of robbery; with intent to rob in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on October 13, 1939, computed from December 11, 1939 be commuted from 20 years to 16 years, 1 month, expiring on January 11, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence would remain on parole until December 11, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES E. FINNEGAN,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Anthony Trolene, E-5471-209, No. A-3120, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Anthony Trolene, convicted of robbery in the Court of Philadelphia County on February 17, 1955 be commuted from 16 months to 11 months expiring on January 17, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-one years of age, and was sentenced for from 16 months to 3 years in the Philadelphia County Prison for the offense of robbery.

The applicant was sentenced for the crime of robbery, the facts disclosing that he was in a card game with victim and there was a dispute over a sum of money. The applicant tried to collect the money from the victim, and was successful in his attempt. There were no threats or weapons used.

The district attorney of Philadelphia County does not oppose this application, nor does the sentencing judge, the Honorable Byron A. Milner. Under date of May 19, 1955, the Judge states: "I see no objection to commuting his sentence because of the conduct of the prisoner."

The conduct of the applicant in the Philadelphia County Prison has been satisfactory.

The Board, therefore, recommends that the minimum sentence of this applicant be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES E. FINNEGAN,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Paul Marcellous Wachtler, E-331, No. A-1889, December Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Paul Marcellous Watchtler, convicted of robbery and larceny in the Court of Oyer and Terminer and Quarter Sessions of Dauphin County on May 3, 1948, computed from March 27, 1948 be commuted from 10 years to 7 years, 9 months, 20 days, expiring January 17, 1956.

Our reasons for making this recommendation are as follows:

This applicant, who is forty-one years of age, was sentenced for from 10 to 20 years in the Eastern State Penitentiary for the crimes of robbery and larceny.

The offense for which this man was sentenced was for robbery of a store in Harrisburg, and the stealing of a sum of money from the proprietor, whereupon the applicant fled the state, and was subsequently arrested and returned to Pennsylvania for trial

The trial judge, the Honorable J. Paul Rupp, did not reply to our inquiry as to the merits of the application. However, the district attorney, Huette Dowling, stated he was not opposed to the granting of clemency.

The applicant has made a satisfactory record in the institution, and as an indication of his regard for his family, he has sent home over fifteen hundred dollars during the years of his incarceration. The institution reports that he is considered an outstanding inmate who has profited from his institutional experience.

The applicant has a good parole plan and will be supervised by the Parole Board upon his release. The Board believes that this young man is rehabilitated, and if returned to society will conduct himself as a law-abiding citizen. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) JAMES E. FINNEGAN.
Secretary of the Commonwealth.

(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Amendus Andreine, 7176-D, No. 6443, January Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Amendus Andreine, convicted of entering a building, escape, robbery, felonious assault and battery and pointing firearms in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on September 15, 1930, computed from Nov. 23, 1946 be commuted from 20 years to 9 years, 3 months, expiring on February 23, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 24, 1966.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Jesse Bargas, No. A-3376, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Jesse Bargas, convicted of attempted larceny of an automobile in the Court of Quarter Sessions of Allegheny County, on September 22, 1950 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is twenty-four years of age. This applicant was convicted of attempted larceny of an automobile and received a suspended sentence on September 22, 1950.

The applicant, with an accomplice, attempted to steal an automobile but the presence of a policeman in the vicinity caused them to flee before the theft was accomplished. Later in the day both the applicant and his accomplice were arrested. Both applicant and acccomplice were found guilty, but received suspended sentences.

Since this offense the applicant has married and has established his own home. The Chief Probation Officer of Allegheny County, J. C. Coulter, states that there is no record of this applicant owing the County any costs and inferred that they had been paid to the Clerk of the Courts.

The trial judge, the Honorable Henry X. O'Brien, states that he sees no reason why the Board should not extend leniency to the applicant. Likewise, the district attorney's office of Allegheny County stated that it had no objection to the granting of pardon.

The applicant has been employed by the Acme Tire Service of Pittsburgh and that company speaks of him as being a "good, loyal employee, and completely honest."

The applicant is desirous of receiving a pardon as he has an offer of employment which he believes cannot be accepted by him with this suspended sentence on the record.

In view of the fact that this applicant for the past five years has lead an exemplary life and the further fact that his offense, for which he received a suspended sentence, was attempted when he was a young man of nineteen, the Board recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Theodore Baron, 243-D, No. 5302, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the sentence of imprisonment imposed on Theodore Baron, convicted of rape, robbery in the Oyer and Terminer and Quarter Sessions Court of Delaware County on January 6, 1937 to be computed from March 17, 1947, be commuted on Bill No. 224 December Sessions, 1936 from a maximum term of 10 years to a maximum term of 8 years, 11 months, expiring on February 17, 1956; and on Bill No. 223 from a maximum term of 10 years to a new maximum term of 1 day, expiring on February 18, 1956. (Applicant's sentence on Bill No. 222 has expired).

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 17, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph L. Beck, C-2496, No. 2803, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph L. Beck, convicted of murder, second degree in the Court of Oyer and Terminer of Allegheny County on February 19, 1952, computed from September 20, 1951 be commuted from 8 years to 4 years, 5 months, expiring on February 20, 1956.

Our reasons for making this recommendation are as follows:

This applicant is 53 years of age. He was sentenced for from 8 to 16 years in the Western State Penitentiary for the crime of murder in the second degree. The offense involved a shooting of his second wife, who had nagged and threatened him during the eleven weeks of their marriage. The victim was the sister of his first wife, and prior to, and after the marriage, the victim gave the applicant no peace of mind and, indeed, but a short time after their marriage she refused to live with him as his wife. The three children of his first marriage are now being cared for by the St. Paul's Orphanage.

The applicant had no previous criminal record and his reputation prior to this offense was very good in the community. He held a good job with the Monongahela Railroad Company.

The institution reports that he has conducted himself in a most satisfactory manner since his incarceration, and has made an excellent inmate. The resident physician states that this applicant has a vericose ulcer in the right leg, which is giving him some trouble.

The district attorney of Allegheny County says that this man deserves special consideration and they do not oppose the application. Likewise, the sentencing Judge, the Honorable Russell H. Adams, is not opposed to the granting of clemency. The family of the victim has written a letter to the Board advising the Board to grant a commutation of sentence as they still have great confidence in the applicant.

The Board believes that this applicant, under the emotional stress that he experienced, will not again offend against the laws of this Commonwealth and will conduct himself as a law-abiding citizen and will take his place in society. The Board, therefore, recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles B. Butler, No. A-3420, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Charles B. Butler, convicted of bigamy in the Court of Quarter Sessions of Allegheny County, on April 22, 1946 be pardoned.

Our reasons for making this recommendation are as follows:

The applicant was sentenced on the 22d day of April 1946 for the crime of bigamy and sentenced to the Allegheny County Workhouse for from 1 year, less 1 day, to 2 years, less 2 days.

The applicant was in the World War II and while stationed in Georgia he married a woman in 1945 and without procuring a divorce he married another woman in Allegheny County in 1947. When he was arrested he plead guilty and received a short jail sentence.

Following his release from the Allegheny County Workhouse, this applicant became reconciled to his first wife and they have been living together as man and wife for the past nine years. They now have three children.

The applicant is now a member of the United States Army and has been connected with the Army since the second world war. He holds the rank of sergeant.

The district attorney's office of Allegheny County states they are not opposed to the granting of a pardon. Likewise, the sentencing judge, the Honorable Henry Ellenbogen, stated he was not opposed to the granting of pardon.

This applicant, as stated, has been in the Army for some years and is at present connected with Headquarters Battery of the 701st AAA Battalion. The Captain of his Company states that he displays outstanding leadership and technical ability. The applicant is scheduled for advancement to the grade of warrant officer and in order to qualify for this advancement it is part of the requirement that there be no record of a criminal offense. We have the word of the Captain that there is a vacancy in the grade of warrant officer and that the captain has recommended the applicant for this vacancy. The applicant had two month's service in Korea and is now scheduled to go to Germany in the very near future. He has arranged for his family to go to Germany.

The Board has no hesitation in recommending a pardon for this applicant in view of his excellent war record and fine family life.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

In re application of William Henry Chambers, C-895, No. A-60, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members

of the Board of Pardons recommend that the minimum sentence of William Henry Chambers, convicted of burglary, larceny, receiving stolen goods, violation of the firearms act in the Court of Oyer and Terminer and Quarter Sessions of Fayette County on October 25, 1948, computed from August 14, 1948, be commuted from 12 years to 7 years, 6 months, 10 days, expiring on February 24, 1956; and further convicted of burglary, larceny, receiving stolen property in the Court of Quarter Sessions of Westmoreland County on March 1, 1949, computed from October 25, 1948, be commuted from 10 years to 7 years, 4 months, expiring on February 25, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age. He was sentenced to for from 12 to 60 years in the County of Fayette on charges of burglary, larceny, receiving stolen goods and violation of the firearms act. He was sentenced to for from 10 to 20 years, to be served concurrently, in Westmoreland County on charges of burglary, larceny and receiving stolen property.

The trial judge of Fayette County, the Honorable H V. Cottom, is deceased, and the President Judge, the Honorable W. Russell Carr, stated he saw no reason for clemency. Likewise, the district attorney of Fayette County expressed opposition to the granting of clemency. The Westmoreland County Court, and district attorney, did not express their opinion as to the merits of this application.

Three of the four accomplices of this applicant have been released: Earl Fuller's sentence was commuted in 1954; Louis Brenchi's sentence was commuted in 1954; James Russell was released from the County Prison years ago. The only remaining accomplice, Ernest E. Humbertson, who received a 17 to 68 year sentence, is still confined.

The reports from the institution indicate that this applicant has a very excellent record; that he is a man who is pentient and recognizes that the sentence was a justifiable one; that he does not possess a criminal mind; and that there is every possibility he will never again break the laws.

The Board believes this applicant is worthy of the mercy of the Commonwealth and therefore recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN (Dissents)
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Arthur Clisby, D-5469, No. A-1755, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Arthur Clisby, convicted of armed to rob, etc., in the Court of Quarter Sessions of Philadelphia County on January 3, 1941, computed from December 31, 1940, be commuted from 40 years, to 15 years, 1 month, 21 days, expiring on February 22, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty-eight years of age. He was sentenced for the offense of being armed to rob, etc., for from 40 to 80 years in the Eastern State Penitentiary.

The applicant was involved with several accomplices in a series of robberies in and about Philadelphia. This was his first major offense. The applicant was only eighteen years of age at the time of commission of these crimes and received from the late Judge McDevitt this severe sentence.

The district attorney's office of Philadelphia County stated that he had no objection to the commutation of sentence, basing the opinion on the severity of the sentence, the age of the applicant at the time of the commission of the crime and his excellent record made in the penitentiary.

The report from the institution indicates that this applicant has made an excellent adjustment and his general attitude is such that the authorities believe he has rehabilitated himself sufficiently to take his place in society.

The applicant has served a considerable period of time and the Board believes that he has been sufficiently punished for the offenses which he committed as a young man. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN (Dissents)
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Danatucci, No. 1192-A, No. 3428, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Frank Danatucci, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on July 15, 1941, computed from January 24, 1947, be commuted from 10 years to 9 years, 1 month, expiring on February 24, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 24, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph D'Antonio, No. A-3177, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph D'Antonio, convicted of riot; conspiracy to assault, riot and destroy property, in the Court of Quarter Sessions of Delaware County on April 10, 1953, computed from October 13, 1955, be commuted from 2 years to 6 months expiring on April 13, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-five years of age. He, and four accomplices, were involved in a riot charge; conspiracy assault, riot and destroy property.

In July 1952, at the site of the former county prison in Media, Delaware County, where demolition was in progress, the applicant, together with his accomplices, who were members of the Operating Engineers, Local No. 542, A. F. of L. came down from Philadelphia to do picket duty. There was a labor dispute in Media at the time and an unruly group of men, numbering from 30 to 60, rushed onto the property and damaged some of the property and assaulted several of the workers. The applicant and his accomplices state that they arrived at the scene of the riot after the riot had taken place, whereupon they promptly got into a car and drove away. They were arrested a short distance from the scene of the riot. They have denied stoutly, at all proceedings, their involvement in the riot and destruction of property.

In April 1953 the applicant and his accomplices were found guilty by a Jury and were sentenced to two years in the Delaware County Prison. They started to serve their sentences on October 13, 1955.

The district attorney of Delaware County and one of the sentencing judges, the Honorable William R. Toal, are opposed to the commutation of these sentences. All letters coming to the Board, however, are most favorable as to the character and reputation of these men. At the time of the trial the feeling of the citizens of Delaware County was such that the Court and Jury were undoubtedly influenced by the attitude of the general public. As this applicant and his accomplices were the only persons arrested they bore the burden of the resentment of the community despite their vigorous denial of any implication in the riot.

The Board believes that this applicant, who has no prior record, has been sufficiently punished and, therefore, recommends that his sentence be commuted when he has served six months, effective April 13, 1956.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph J. Dendofer, No. A-3178, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph J. Dendofer, convicted of riot, conspiracy to assault, riot and destroy property in the Court of Quarter Sessions of Delaware County on April 10, 1953, computed from Oceober 13, 1955, be commuted from 2 years to 6 months, expiring on April 13, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He, and four accomplices, were involved in a riot charge; conspiracy to assault, riot and to destroy property.

In July 1952, at the site of the former county prison in Media, Delaware County, where demolition was in progress, the applicant, together with his accomplices, who were members of the Operating Engineers, Local No. 542, A.F. of L. came down from Philadelphia to do picket duty. There was a labor dispute in Media at the time and an unruly group of men, numbering from 30 to 60, rushed onto the property and damaged some of the property and assaulted several of the workers. The applicant and his accomplices state that they arrived at the scene of the riot after the riot had taken place, whereupon they promptly got into a car and drove away. They were arrested a short distance from the scene of the riot. They have denied stoutly, at all proceedings, their involvement in the riot and destruction and property.

In April 1953 the applicant and his accomplices were found guilty by a Jury and were sentenced to two years in the Delaware County Prison. They started to serve their sentences on October 13, 1955.

The district attorney of Delaware County and one of the sentencing judges, the Honorable William R. Toal, are opposed to the commutation of these sentences. All letters coming to the Board, however, are most favorable as to the character and reputation of these men. At the time of the trial the feeling of the citizens of Delaware County was such that the Court and Jury were undoubtedly influenced by the attitude of the general public. As this applicant and his accomplices were the only persons arrested they bore the burden of the resentment of the community despite their vigorous denial of any implication in the riot.

The Board believes that this applicant, who has no prior record, has been sufficiently punished, and, therefore, recommends that his sentence be commuted when he has served six months, effective April 13, 1956.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Pasquale DiMarco, No. A-3179, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Pasquale DiMarco, convicted of riot, conspiracy to assault, riot and destroy property in the Court of Quarter Sessions of Delaware County on April 10,

1953, computed from October 13, 1955, be commuted from 2 years to 6 months, expiring on April 13, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty-one years of age. He, and four accomplices, were involved in a riot charge; conspiracy to assault, riot and to destroy property.

In July 1953, at the site of the former county prison in Media, Delaware County, where demolition was in progress, the applicant, together with his accomplices, who were members of the Operating Engineers, Local No. 542, A.F. of L. came down from Philadelphia to do picket duty. There was a labor dispute in Media at the time and an unruly group of men, numbering from 30 to 60, rushed onto the property and damaged some of the property and assaulted several of the workers. The applicant and his accomplices state that they arrived at the scene of the riot after the riot had taken place, whereupon they promptly got into a car and drove away. They were arrested a short distance from the scene of the riot. They have denied stoutly, at all proceedings, their involvement in the riot and destruction of property.

In April 1953 the applicant and his accomplices were found guilty by a Jury and were sentenced to two years in the Delaware County Prison. They started to serve their sentences on October 13, 1955.

The district attorney of Delaware County and one of the sentencing judges the Honorable William R. Toal, are opposed to the commutation of these sentences. All letters coming to the Board, however, are most favorable as to the character and reputation of these men. At the time of the trial the feeling of the citizens of Delaware County was such that the Court and Jury were undoubtedly influenced by the attitude of the general public As this applicant and his accomplices were the only persons arrested they bore the burden of the resentment of the community despite their vigorous denial of any implication in the riot.

The Board believes that this applicant, who has no prior record, has been sufficiently punished, and, therefore, recommends that his sentence be commuted when he has served six months, effective April 13, 1956.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward Dorian, 2630-D, No. 5900, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Edward Dorian, convicted of armed robbery, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 15, 1940, computed from February 27, 1940 be commuted from 20 years to 16 years, expiring on February 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 27, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Carmella Giacobbe, 1712, No. 5596. January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Carmella Giacobbe, convicted of murder in the first degree in the Court of Oyer and Terminer of Philadelphia County on November 1, 1940 be commuted from life imprisonment to 15 years, 4 months, expiring on March 1, 1956.

Our reasons for making this recommendation are as follows:

This applicant is sixty-two years of age. She was sentenced to life imprisonment for the crime of murder in the first degree in November 1940.

This applicant was involved in the famous arsenic ring in Philadelphia where individuals were given poison so that upon their death the insurance money could be collected by certan individuals. The husband of the applicant was disinterred after death and found to have a large quantity of arsenic in his body.

The applicant maintained her innocence but the jury found her guilty on the testimony of one Paul Petrillo, who was subsequently executed.

The district attorney of Philadelphia County stated that this applicant's conviction was based on circumstantial evidence and at no time were they able to show that she had bought arsenic or served arsenic to her husband. The district attorney also stated that because of her age, the time she had served, her guilt being based on circumstantial evidence, their office was not objecting to the commutation of her life sentence.

The trial judge, the Honorable Louis F. Levinthal, had no comment to make to this request for commutation.

The institution physician states that this applicant is suffering from organic changes which accompany advances in age, but mentally she is still in possession of all her faculties. Her institutional record in Muncy is excellent, and the Board, believing that if released she will never again commit any offenses and knowing that she will be taken care of by her family, recommend commutation.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Theodore Washington Hipple, 7550-D, No. 8412, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due notice, in open session, the undersigned members, of the Board of Pardons recommend that the maximum sentence of Theodore Washington Hipple, convicted of burglary, in the Court of Oyer and Terminer and Quarter Sessions of Sullivan County on June 8, 1942, computed from June 4, 1942, be commuted from 20 years to 13 years 8 months 10 days expiring on February 14, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 4, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Leonard Hunter, 959-D, No. 2891, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due notice, in open session, the undersigned members, of the Board of Pardons recommend that the maximum sentence of Leonard Hunter, convicted of murder, first degree, in the Court of Oyer and Terminer and Quarter Sessions of Washington County on March 2, 1931 be commuted from life to 24 years 11 months 10 days expiring on February 12, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Jones, D-7643, No. A-245, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Jones, convicted of robbery; assault and battery, aggravated assault and battery with intent to kill, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 3, 1944, computed from February 29, 1944, be commuted from 23½ years to 12 years expiring on February 29, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age. He was sentenced for the crime of robbery; assault and battery, aggravated assault and battery with intent to kill, for from 23½ to 47 years in the Eastern State Penitentiary. He subsequently was sentenced by the Courts of Montgomery Court for from 1 to 3 years, to be served consecutively, making a total of 24½ to 50 years.

The accomplice, Harrison Wormack, received a similar sentence of 23½ to 47 years, but was commuted upon the recommendation of the Board of Pardons, effective June 15, 1954.

The applicant's offense involved the hold-up of a pedestrian at which time a revolver was used. The victim was shot but not severely injured. The Montgomery County offense involved the assault by the applicant upon an inmate at State Penitentiary at Graterford.

The applicant received a very severe sentence for this Philadelphia offense in view of the circumstances of the case. He has served a period of time longer than the minimum sentence for a second degree murder.

The Board believes that the severe sentence this applicant received, in excess of a second degree murder sentence with no killing involved, entitles the applicant to a commutation of sentence. The Board, therefore, recommends that the Philadelphia County sentence be commuted so that he can start to serve the Montgomery County sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN—Dissents,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Krok, E-1208, No. A-3266, December Session, 1955. (Recommended January Session, 1956.)

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Krok, convicted of burglary, in the Court of Quarter Sessions of Philadelphia County on August 10, 1949, computed from June 30, 1949 be commuted from 30 years to 10 years expiring on June 30, 1959.

Our reasons for making this recommendation are as follows:

This applicant is thirty years of age. He was sentenced for the crime of burglary for from 30 to 60 years in the Eastern State Penitentiary.

The offenses consisted of a series of robberies of various business places and residences, accompanied by three accomplices. They stole a total in cash and merchandise of $11,000. The applicant had no prior criminal record except an arrest as a juvenile.

The applicant's three accomplices had criminal records and they also received severe sentences. The severe sentence received by this applicant, who never was involved in a prior major offense, was probably due to the fact that all the gang were sentenced at the same time.

The district attorney of Philadelphia County is not opposed to the granting of clemency, and the trial judge, the Honorable Charles L. Guerin stated: "I shall be in accord with any action taken thereon by the Board."

The penitentiary reports that this applicant has maintained an unblemished disciplinary record and has demonstrated habits and conduct that would prove of benefit to him upon release.

The Board believes that this young man has learned a good lesson in the institution and that, if released, he will not return to a life of crime. The Board, therefore, recommends that his sentence be commuted to expire on June 30, 1959, when he has served 10 years of his minimum sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
NOT SITTING,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Nicholas Malen, 588-D, No. 4897, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Nicholas Malen, convicted of robbery, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 25, 1938, computed from January 1, 1938 be commuted from 30 years to 18 years 1 month 10 days expiring on February 16, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 6, 1968.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Steve Masternak, No. 1044-D, No. 4769, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Steve Masternak, convicted of breaking and escaping penitentiary, larceny of auto and robbery in the Court of Quarter Sessions of Centre County on October 9, 1837, computed from January 11, 1942 be commuted from 6 years to 4 years 1 month expiring on February 11, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 11, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John E. McMeekin, No. 1040-D, No. 4681, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John E. McMeekin, convicted of robbery in the Court of Oyer and Terminer of Allegheny County on June 17, 1937, be communted from 20 years to 18 years, 8 months, expiring on February 17, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 17, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Francis J. McMenamin, No. 2512-C, No. 8955, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Francis J. McMenamin, convicted of assault, being armed with offensive weapon with intent to kill, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on October 30, 1941, computed from September 25, 1941, be commuted from 36 years to 14 years, 5 months, expiring on February 25, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 15, 1977.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph McSorley, No. A-3176, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph McSorley, convicted of riot, conspiracy to assault, riot and destroy property in the Court of Quarter Sessions of Delaware County on April 10, 1953, computed from October 13, 1955, be commuted from 2 years to 6 months, expiring on April 13, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-three years of age. He, and four accomplices, were involved in a riot charge; conspiracy to assault, riot and to destroy property.

In July 1952, at the site of the former county prison in Media, Delaware County, where demolition was in progress, the applicant, together with his accomplices, who were members of the Operating Engineers, Local No. 542, A. F. of L. came down from Philadelphia to do picket duty. There was a labor dispute in Media at the time and an unruly group of men, numbering from 30 to 60, rushed onto the property and damaged some of the property and assaulted several of the workers. The applicant and his accomplices state that they arrived at the scene of the riot after the riot had taken place, whereupon they promptly got into a car and drove away. They were arrested a short distance from the scene of the riot. They have denied stoutly, at all proceedings, their involvement in the riot and destruction of property.

In April 1953 the applicant and his accomplices were found guilty by a Jury and were sentenced to two years in the Delaware County Prison. They started to serve their sentences on October 13, 1955.

The district attorney of Delaware County and one of the sentencing judges, the Honorable William R. Toal, are opposed to the commutation of these sentences. All letters coming to the Board, however, are most favorable as to the character and reputation of these men. At the time of the trial the feeling of the citizens of Delaware County was such that the Court and Jury were undoubtedly influenced by the attitude of the general public. As this applicant and his accomplices were the only persons arrested they bore the burden of the resentment of the community despite their vigorous denial of any implication in the riot.

The Board believes that this applicant, who has no prior record, has been sufficiently punished, and, therefore, recommends that his sentence be commuted when he has served six months, effective April 13, 1956.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Rainier, No. A-3180, January Session 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Charles Rainier, convicted of riot, conspiracy to assault, riot and destroy property in the Court of Quarter Sessions of Delaware County on April 10, 1953, computed from October 13, 1955, be commuted from 2 years to 6 months, expiring on April 13, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-nine years of age. He, and four accomplices, were involved in a riot charge; conspiracy to assault, riot and to destroy property.

In July 1953, at the site of the former county prison in Media, Delaware County, where the demolition was in progress, the applicant, together with his accomplices, who were members of the Operating Engineers, Local No. 542, A. F. of L. came down from Philadelphia to do picket duty. There was a labor dispute in Media at the time and an unruly group of men, numbering from 30 to 60, rushed onto the property and damaged some of the property and assaulted several of the workers. The applicant and his accomplices, state that they arrived at the scene of the riot after the riot had taken place, whereupon they promptly got into a car and drove away. They were arrested a short distance from the scene of the riot. They have denied stoutly, at all proceedings, their involvement in the riot and destruction of property.

In April 1953 the applicant and his accomplices were found guilty by a Jury and were sentenced to two years in the Delaware County Prison. They started to serve their sentences on October 13, 1955.

The district attorney of Delaware County and one of the sentencing judges, the Honorable William R. Toal, are opposed to the commutation of these sentences. All letters coming to the Board, however, are most favorable as to the character and reputation of these men. At the time of the trial the feeling of the citizens of Delaware County was such that the Court and Jury were undoubtedly influenced by the attitude of the general public. As this applicant and his accomplices were the only persons arrested they bore the burden of the resentment of the community despite their vigorous denial of any implication in the riot.

The Board believes that this applicant, who has no prior record, has been sufficiently punished, and, therefore, recommends that his sentence be commuted when he has served six months, effective April 13, 1956.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Stanley Sheftick, C-3038, No. A-3395, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Stanley Sheftick, convicted of armed assault with intent to rob, in the Court of Oyer and Terminer, of Allegheny County, on March 27, 1953, computed from February 7, 1953, be commuted from 5 years to 3 years, 10 days, expiring on February 17, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty-seven years of age. He was sentenced for from 5 to 10 years in the Western State Penitentiary on charges of armed assault with intent to rob.

The applicant, and an accomplice, were found guilty of attempted robbery and having in their possession a revolver, a stolen license plate, burglary tools and other items. The applicant received the sentence of 5 to 10 years, which was to be reduced during the term to a 3 to 6 year sentence. The sentencing Judge, Ex-Judge Ralph T. Bell, advises the Board: "it was my intention to change his sentence to be in line with the others (to wit: from 3 to 6 years) * * * The heavier sentence imposed on Sheftick was by reason of some criminal activities which occurred about ten years prior to the incidents mentioned in the indictments. * * * I have no objection to any clemency your board wishes to exercise."

The district attorney of Allegheny County stated that the trial judge intended to change the sentence into a 3 to 6 year term, and, therefore, he had no objection to the granting of commutation based on his sentence of 3 to 6 years. The accomplice of the applicant received a 3 to 6 year term.

In view of the fact that the trial judge intended to give this applicant a 3 to 6 year sentence and overlooked it due to the press of business, the Board recommends that this applicant have his minimum sentence reduced to 3 years, 10 days, effective February 17, 1956.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Arthur Sutherland, D-9920, No. A-1937, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Arthur Southerland, convicted of robbery; assault and battery; aggravated assault and battery, assault and battery with intent to kill in the Court of Quarter Sessions of Philadelphia County, September 29, 1947, computed from September 22, 1947, be commuted from 13½ years to 8 years, 5 months, expiring on February 22, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-years of age. He was sentenced for the crimes of robbery; assault and battery; aggravated assault and battery, assault and battery with intent to kill for from 13½ to 27 years in the Eastern State Penitentiary.

The applicant, and two accomplices, were involved in the robbery of an office in Philadelphia. The applicant drove the "get away" car while his accomplices conducted the robbery. This was the first offense of the applicant

and the district attorney stated that for the offense he was too severally punished. One of his accomplices, Floyd Jackson, who received a similar sentence, was commuted by the Board of Pardons on September 14, 1955. The other accomplice is insane and in the Farview State Hospital.

The applicant's adjustment in the institution has been excellent and his entire manner of behaviour has undergone a radical change. The institution authorities speak of his excellent disciplinary record and his efforts for self-improvement during the past eight years.

The Board believes that this young man has an insight into his behaviour problem and that if released he will no longer offend against the laws of this Commonwealth. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Stanley Williams, E-3189, No. A-3410, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Stanley Williams, convicted of robbery in the Court of Quarter Sessions of Philadelphia County, on August 27, 1952, computed from April 25, 1952, be commuted from 5 years to 3 years 6 months, expiring on February 27, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-nine years of age. He was sentenced for from 5 to 20 years for the offense of robbery, in the Eastern State Penitentiary.

The applicant and two accomplices, were involved in several hold-ups of American Stores, and several Pawn Shops, in the City of Philadelphia. Although the accomplice carried a gun, no violence was used in the perpetration of these hold-ups.

The applicant has no prior criminal record. One of his accomplices, Eugene Kennedy, who received a similar sentence, had his sentence commuted by the Board of Pardons in October 1955.

The district attorney of Philadelphia County stated that he was not opposed to the granting of clemency in this case, as this applicant has made a fine adjustment in the penitentiary. His entire personality has changed for the better, and the district attorney, when he interviewed the applicant prior to the meeting of the Board, stated that the applicant made a most favorable impression upon him.

The trial judge, the Honorable Joseph Sloane, did not reply to our inquiry as to the merits of this application.

The applicant has a good parole plan and the Board believes that if released he will not offend against the laws of this Commonwealth in the future, and will properly adjust himself in society. The Board, therefore, recommends commutation be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Abraham Wolk 2918-D, No. 7664, January Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Abraham Wolk, convicted of Robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County, on January 8, 1940, computed from December 29, 1939, be commuted from 40 years to 16 years, 2 months, expiring on February 29, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 29, 1979.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William J. Allison, C-2791, No. A-2894, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William J. Allison, convicted of larceny, receiving stolen property; burglary of motor vehicle in the Court of Quarter Sessions of Westmoreland County on August 25, 1952, computed from July 12, 1952 be commuted from 5 years to 3 years, 8 months, 10 days expiring on March 22, 1956.

Our reasons for making this recommendation are as follows:

This applicant was sentenced in Westmoreland County for from five to ten years in the Western State Penitenti-

ary. He had been sentenced previously in Allegheny County for the crime of larceny and sentenced to two and one-half to five years, concurrent with Westmoreland County sentence. He completed the minimum of his Allegheny County sentence on January 12, 1955.

This applicant is twenty-four years of age. He, with a group of boys, embarked on a series of burglaries and larcenies in Westmoreland and Allegheny Counties, in which they stole automobiles, automobile accessories, and tools from the Pennsylvania Department of Highways. The accomplice of this applicant has been released.

This young man during his incarceration holds a trusted position as a clerk in the deputy warden's office in the Western State Penitentiary.

The district attorney of Westmoreland County states that his office is not opposed to the granting of commutation in view of the fact that his accomplice had his sentence commuted; that he has served a very substantial portion of his minimum sentence; and further that the applicant had no former criminal record except a minor violation of the motor code.

The Board believes that this young man has learned a severe lesson to the extent that there is every reason to believe that he will not again offend and will adjust himself satisfactorily to the standards of citizenship. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
NOT SITTING,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Mattie Mae Andrews, A-3482, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Mattie Mae Andrews, convicted of frequenter of a bawdy house in the Court of Municipal of Philadelphia County, on June 27, 1935 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. She was sentenced to an indefinite term in the State Industrial Home for Women at Muncy, Penna., for the offense of being an inmate of a bawdy house.

This woman was only seventeen years of age at the time of her arrest for this offense and she had been reported to the police by her father, as both a run-away and an incorrigible. The applicant was released from the Home in April 1937 and returned to Philadelphia. Since 1937 she has been employed in various capacities in Philadelphia and has conducted herself in a very satisfactory manner. Recently she has been working for the United States Post Office Department.

The sentencing judge is deceased, but the President Judge, the Honorable Hazel H. Brown, states as far as her information concerning the applicant extends, she has no objection to the granting of her application.

Likewise, the representative of the District Attorney of Philadelphia County stated to the Board that he was not opposed to the granting of this applican's plea because the applicant was a juvenile offender, and too, since her release in 1937, she appears to have been completely rehabilitated and is conducting herself in a very satisfactory manner in Philadelphia.

From all information received by the Board, this applicant is living an exemplary life and the Board believes a pardon would be of material value to her in her advancement in her employment. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Brown No. 1070-D, No. 7424, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Frank Brown, convicted of robbery, armed with offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 31, 1939, computed from February 23, 1956 be commuted from 35 years to 17 years 1 month expiring on March 23, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 23, 1974.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William B. Burks, No. 1181-C, No. 8764, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due

public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William B. Burks, convicted of voluntary manslaughter, in the Court of Oyer and Terminer and Quarter Session of Delaware County on June 26, 1946, computed from June 18, 1946, be commuted from 12 years to 9 years 9 months 10 days expiring on March 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 18, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Dais, D-146, No. 8579, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Dais, convicted of murder in the first degree, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County of November 23, 1934, be commuted from life imprisonment to 21 years 4 months expiring on March 23, 1956.

Our reasons for making this recommendation are as follows:

This applicant is fifty-one years of age. He plead guilty to the crime of murder generally and was sentenced to life imprisonment in the Eastern State Penitentiary.

The offense consisted of the fatal shooting of a friend at a card game. The dispute arose primarily as to whether or not the money wagered on the cards belonged to the applicant or the decedent. The decedent escorted the applicant to the front door and thereupon a scuffle ensued and the decedent was fatally shot. There were no witnesses to the fatal shooting as the rest of the members of the card game were in another room and could not see what happened. There was some question as to whether or not this crime rose higher than second degree murder.

The President Judge, the Honorable Edwin O. Lewis, wrote to the Board that he had no recommendation to make, but would be satisfied to leave the disposition to the good judgment of the Board of Pardons.

The assistant district attorney of Philadelphia County stated to the Board that he was not opposed.

During the applicant's incarceration he has had a very good institutional record and shows a definite improvement in his personality. Prior to this major offense the applicant was involved in only minor misdemeanors.

The applicant has served over twenty-one years of a life sentence. The Board, believing that he has been sufficiently punished, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Emanuel, D-2646, No. 9744, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Emanuel, convicted of murder in the first degree, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on December 3, 1937 be commuted from life imprisonment to 18 years 4 months expiring on April 3, 1956.

Our reasons for making this recommendation are as follows:

This applicant is fifty years of age. He was sentenced for the crime of murder to life imprisonment in the Eastern State Penitentiary.

The offense involved the fatal shooting of a woman with whom he was living in Philadelphia. It appeared that he had showered many gifts upon this woman, but just prior to the day of the killing the woman informed the applicant that she was no longer interested in him. Later in the evening of the same day, the applicant entered the sitting-room of their home and, using a shot gun, shot and killed the decedent. Prior to this offense, the applicant had no criminal record.

One of the trial judges, the Honorable Gerald F. Flood, stated he was "entirely satisfied to leave the matter up to the Board."

The assistant district attorney of Philadelphia County stated that his office was not opposed to granting of clemency as he had seen the applicant in the penitentiary and was much impressed by him. He believes that the applicant will make a good adjustment if released to society.

During his incarceration the applicant has maintained an unblemished disciplinary record. He has shown improvement in both his attitude and his adjustment. The reports from all the departments in the penitentiary are most favorable as to his behaviour.

The applicant has served over eighteen years of his sentence. The Board, believing that this applicant will not again offend and will conduct himself satisfactorily in society, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harvey Feathers, No. 4236-C, No. 4349, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harvey Feathers, convicted of murder in the first degree, in the Court of Oyer and Terminer and Quarter Session of Bedford County on April 18, 1929 be commuted from life to 26 years 11 months 10 days expiring on March 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry Fichter, No. 2557-C, No. A-3435, February Session, 1956 .

To His Excellency, the Governor of the Commonweatlh of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harry Fichter, convicted of burglary in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on February 7, 1947, computed from December 14, 1946 be commuted from 10 years to 9 years, 3 months, 10 days, expiring on March 24, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 14, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Benjamin Fisher, D-9879, No. A-1561, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Benjamin Fisher, convicted of being armed to rob; robbery in the Court of Quarter Sessions of Philadelphia County on September 8, 1947, computed from August 23, 1947 be commuted from 10 years to 8 years, 7 months, expiring on March 23, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty-one years of age He was sentenced to a term of ten to twenty years in the Eastern State Penitentiary for the crime of armed robbery.

The offense consisted of holding up a taxi-driver and relieving him of the sum of $4.75. Prior to this sentence, his offenses were minor misdemeanors.

The trial judge is deceased and the President Judge, the Honorable Joseph L. Kun, relies upon the Board for their judgment.

The assistant district attorney of Philadelphia County stated to the Board that he would not oppose this application as he was impressed with the sincerity of the applicant upon his visit to the prison. He sincerely believes that the applicant will adjust himself to society upon release.

During his incarceration the applicant has been acting as a supervisor of farm work at the State Penitentiary at Graterford and is considered one of the better prisoners in the institution. His attitude is most favorable. His adjustment of personality is greatly improved and he holds a position in the institution, of trust. There has been set up for him a satisfactory parole program.

This applicant has served over eight years of his ten year minimum sentence. The Board feels that he has been sufficiently punished and recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harding Fuller, 8076-D, No. 9494, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harding Fuller, convicted of assault with intent to rob, in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on June 13, 1946, computed from May 4, 1946 be commuted from 10 years to 9 years, 11 months, expiring on April 4, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until May 4, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Patrick Gavin, E-3186, No. A-3443, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Patrick Gavin, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on August 27, 1952, computed from July 28, 1952 be commuted from 5 years to 4 years, expiring on July 28, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-five years of age. He was sentenced for from five to twenty years in the Eastern State Penitentiary for the crime of robbery. This offense consisted of robbing a paint manufacturing company in Philadelphia and the taking of a two thousand dollar payroll at the point of a gun. The applicant was the look-out man while his two accomplices did the actual robbing. Prior to this offense the applicant had no criminal record.

Since his incarceration the applicant's conduct has been exemplary and he has developed the ability to think for himself. The change in his attitude and behavior is significant.

The assistant district attorney of Philadelphia County stated that his office was not opposed to the granting of clemency in this matter.

The trial judge, the Honorable Joseph Sloane, did not reply to our inquiry as to the merits of the appliction.

At present this applicant is assistant to the chief clerk at the State Penitentiary at Graterford and is classified as a trusted inmate.

The applicant has a good parole program and the Board believes that this young man will not again offend against society and will conduct himself as a respectable citizen. The Board, therefore, recommends that his sentnce be commuted when he has served four years, which will be July 28, 1956.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Isadore Holtzin, 8520-A, No. 4484, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentences of Isadore Holtzin, convicted of robbery, being armed with an offensive weapon, in the Courts of Oyer and Terminer and Quarter Sessions of Philadelphia County, on April 15, 1929, be commuted from a maximum of 20 years on Bill No. 550, to a new maximum of 7 years, 1 day, expiring on May 15, 1956, and commuted from a maximum of 20 years on Bill No. 551 to a new maximum of 1 day, expiring on May 16, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 18, 1966.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Francis Rodman Hope, 95606, No. A-2514, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Francis Rodman Hope, convicted of robbery,

and assault and battery in the Court of Quarter Sessions of Delaware County on April 24, 1953, computed from January 10, 1953 be commuted from 5 years to 3 years, 2 months, 14 days, expiring on March 24, 1956.

Our reasons for making this recommendation are as follows:

This applicant was sentenced for the offense of robbery and assault and battery for from five to ten years to the Delaware County Prison on April 24, 1953, effective January 10, 1953.

This applicant is twenty-five years of age. His offense occurred when he and a group of young men held up a tavern in Delaware County and stole about three hundred dollars worth of loot. Two of the accomplices are no longer in prison and the third is confined to Farview State Hospital.

The trial judge, the Honorable William R. Toal, wrote the Board as follows: "His partners in crime have all been commuted and I do not see any reason why he should be treated any differently." The district attorney, however, opposed the granting of commutation.

This applicant had no prior criminal record and this was his first offense.

The Warden of the Delaware County Prison states that the applicant has made a fine adjustment. He has been made an assistant in the operation of the prison hospital and he is classified as a trusty. He works without a guard and has shown every indication of rehabilitation.

The Board believe that this young man has learned a severe lesson and that he will not, if released, again offend the rules of society. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT.
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry Dittmer Immel, No. 7781-D, No. 9894, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harry Dittmer Immle, convicted of murder in the second degree in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on October 13, 1942 be commuted from 20 years to 13 years, 11 months expiring on March 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 20, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Paul Jones, No. 549-D, No. 3176, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Paul Jones, convicted of murder in the first degree, in the Court of Oyer and Terminer and Quarter session of Philadelphia County on September 27, 1923, be commuted from life to 32 years, 6 months, expiring on March 27, 1956.

Our reasons from making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John J. Mellek, No. 81, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that John J. Mellek, convicted of armed robbery in the Court of Quarter Sessions of Philadelphia County, on May 3, 1928, be pardoned.

Our reasons from making this recommendation are as follows:

The applicant is forty-three years of age. He was sentenced for the offense of hold-up while armed and sentenced for from 4 to 8 years in the Eastern State Penitentiary, effective May 3, 1928.

The applicant was released from supervision of the

Board of Parole in May 1936, when his maximum sentence expired. He served his minimum sentence.

The applicant, accompanied by his brother-in-law, held up a taxi-driver and robbed him of $12.50. The applicant was only sixteen years old at the time of his offense.

Since his release, the applicant has been employed by the Harry M. Stevens Company, which company operates restaurants at race tracks in New Jersey. At present the applicant is a waiter with this company and has the opportunity of being a head-waiter, provided he is pardoned of this offense. The New Jersey Racing Commission's regulations require that employes of race tracks and those associated with racing must be free of crime, or pardoned for offenses committed by them.

For the past twenty-four years this applicant has been a law-abiding citizen and has not been involved in any offenses.

The sentencing judge is deceased and the President Judge, the Honorable Eugene V. Alessandroni, relies upon the discretion of the Board. The assistant district attorney of Philadelphia County stated to the Board that he was not opposed to the granting of clemency.

The Board believes that this applicant, who has proved to be a law-abiding and respectable citizen for the past quarter of a century is deserving of the mercy of the Commonwealth and further that since this pardon would improve his economic status the Board recommends a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
NOT SITTING,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George Mullen, No. 3731-D, No. 8430, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommended that the maximum sentence of George Mullen, convicted of robbery, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on November 13, 1944, computed November 6, 1944 be commuted from 20 years to 11 years, 4 months, 20 days, expiring on March 26, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 1964.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James R. Porter, No. 1034-D, No. 7411, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James R. Porter, convicted of assault with intent to rob, burglary, robbery, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on June 18, 1941, computed from February 11, 1941 be commuted from 30 years to 15 years, 1 month, 10 days expiring on March 21, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 11, 1971.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Max Roland, No. 2851-D, No. 7637, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Max Roland, convicted of Rape in the Court of Oyer and Terminer and Quarter Sessions of Clearfield County on April 20, 1942, computed from April 4, 1942 be commuted from 15 years to 13 years, 11 months, 10 days, expiring on March 21, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action

to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 11, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Paul Rubin, No. 4048-A, No. 7920, February Session, 1955.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Paul Rubin, convicted of Robbery, being armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 31, 1939, computed from March 21, 1939 be commuted from 20 years to 17 years, expiring on March 21, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 21, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Stanley M. Schwartz, 77434, No. A-3457, February Session, 1956.

To his Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Stanley M. Schwartz, convicted of bribery in the Court of Quarter Sessions of Erie County on January 6, 1955, computed from August 8, 1955 be commuted from 1½ years to 1 year, expiring on August 8, 1956.

Our reasons for making this recommendation are as follows:

This applicant plead not guilty and was found guilty and sentenced to serve for from 1½ to 3 years in the Allegheny County Workhouse, effective August 8, 1955, for the crime of bribery.

This applicant is thirty-nine years of age. He was involved with Thomas W. Flatley, Mayor of the City of Erie, Policeman John Martin and Henry Soscia in collecting contributions from persons engaged in gambling activities in Erie County. The testimony indicated that considerable sums of money were collected and divided among this group. This applicant held a prominent position in the civil and political life of the County of Erie.

During the applicant's incarceration he has conducted himself in a most satisfactory manner and he is at present a clerk in the hospital of the Allegheny County Workhouse.

The trial judge, the Hononable Elmer L. Evans, stated that this applicant should serve as long a time as one of his accomplices, to wit: Thomas W. Flatley. The district attorney of Erie County stated to the Board that he was strongly opposed to the granting of commutation.

The Board has on file innumerable letters from individuals and organizations of Erie County, recommending that the applicant be released.

The Board is recommending that this applicant's minimum sentence be commuted to expire when he has served 1 year from the effective date of his imprisonment, to wit: August 8, 1956.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
NOT SITTING,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph James Sellers, D-9256, No. A-3484, February Session, 1956.

To his Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph James Sellers, convicted of murder in the first degree in the Court of Oyer and Terminer and Quarter Session of Philadelphia County on November 27, 1946 be commuted from life imprisonment to 10 years, expiring on November 27, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-six years of age. He was sentenced to life imprisonment in the Eastern State Penitentiary for the crime of murder in the first degree.

At the time of this offense this applicant was but fifteen years old and, in company with an older man, attacked

the victim and took his money. No weapons were used but the victim was severely beaten. There is every belief that if the victim had been given medical attention he would have survived.

The trial judge, the Honorable Gerald F. Flood, wrote to the Board that this applicant's sentence should be commuted, stating: "* * * since none of us felt there was an intent to kill, no weapon was used and the defendant at the time was less than sixteen years of age." The court sentenced this boy, because under the law, a life sentence was mandatory as the killing was in the course of a robbery.

The assistant district attorney stated to the Board he was not opposed to the granting of clemency in this matter as the applicant was barely sixteen years of age at the time of the offense.

The institution reports that this applicant has an unblemished disciplinary record. The reports from all departments are favorable. He has shown much improvement both in his attitude and adjustment.

The applicant has a good parole plan. The Board believes that this young man has learned a lesson in society conduct that will be a deterent for any offenses he may think of committing in the future. The Board, therefore, recommends his sentence be commuted when he has served ten years.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Adolph Strockbine, No. 645-B, No. 5064, February Session, 1956.

To his Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Adolph Strockbine, convicted of murder in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Schuylkill County on May 17, 1926 be commuted from life to 29 years, 10 months, 10 days, expiring on March 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Ecellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Dominick Teny, No. A-3310, February Session, 1956.

To his Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Frank Dominick Teny, convicted of rape, fornication, assault and battery, indecent assault in the Court of Oyer and Terminer and Quarter Sessions of Beaver County on October 21, 1953, computed from October 14, 1953 be commuted from 3 years to 2 years, 5 months, 10 days, expiring on March 24, 1956.

Our reasons for making this recommendation are as follows:

This applicant plead not guilty in Beaver County for the crimes of rape, fornication, assault and battery and indecent assault, and in Allegheny County for the crime of sodomy. He was sentenced for from 3 to 15 years for the Beaver County offense and later sentenced by the Allegheny County Court for from 2 to 4 years, to follow the Beaver County sentence, for the Allegheny County offense.

This offense consisted to having illegal carnal relations with a girl in Beaver County, accompanied by a friend. Then later on having intercourse with the same girl in the vicinity of Ambridge, Allegheny County.

The applicant raises the question that these offenses were not the result of any assault upon the girl, but rather committed with her consent. His companion, Roddy Jones, has had both the Beaver and the Allegheny County sentences commuted by the Board of Pardons, the Allegheny County sentence being effective December 15, 1955.

The sentencing judge in Beaver County, the Honorable Morgan H. Sohn, stated to the Parole Investigator that he would leave the matter up to the Board, but the district attorney of that county expressed opposition.

The Board recommends that the Beaver County sentence be commuted, effective March 24, 1956, so that the applicant can commence service of the Allegheny County sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
NOT SITTING,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Thacker, B-5834, No. 8375, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due

public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Thacker, convicted of murder in the first degree in the Court of Oyer and Terminer of Allegheny County on September 22, 1936 be commuted from life imprisonment to 19 years, 6 months expiring on March 22, 1956.

Our reasons for making this recommendation are as follows:

This applicant was sentenced to life imprisonment in the Western State Penitentiary for the crime of murder in the first degree.

This applicant is fifty-seven years of age. The history of his offense has its foundation in the actions of the victim toward the applicant and other persons living in the Hill District of Pittsburgh, Pa. The victim was known as a bully and, on two occasions immediately prior to the killing, had stabbed one man and shot another in the leg. On the night of the fatal shooting the applicant with a friend, was standing on the corner of a street in the Hill District when the victim approached the group and the fatal shot was fired. There were no witnesses to the altercation which preceded the shooting. The victim made a death bed statement, which involved the applicant as the wielder of the revolver.

There was much conflicting testimony at the trial but the jury brought in a verdict of guilty. The decision was appealed to the Supreme Court of the Commonwealth and the lower courts' judgment was affirmed.

A letter of inquiry to the President Judge, the Honorable William H. McNaugher, brings the reply that since the Judge who sat is no longer on the bench, he, the President Judge, had no recommendation to make.

The assistant district attorney of Allegheny County stated to the Board that he was not opposed to the granting of clemency.

This applicant had a prior record of one robbery offense.

During his incarceration the applicant has maintained an unblemished disciplinary record. At present he is assistant to the clerk of the penitentiary store room and the authorities report that he has been a steady and dependable worker. The prison staff considers him to be a very good prospect for release.

This applicant, having spent nearly twenty years in confinement, has thoroughly adjusted himself and has learned to respect authority and to control his aggressive impulsives.

The Board believes that if this man is released he will not offend against society in the future and the Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
NOT SITTING,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GEORGE M. LEADER,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Vonalla, 9934-C, No. 5231, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommended that the maximum sentence of Frank Vonalla, convicted of murder in the first degree in the Court of Oyer and Terminer and Quarter Sessions of Luzerne County on August 5, 1926 be commuted from life to 29 years, 8 months expiring on April 5, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Pink Watkins, Jr., 6178-C, No. 8762, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Pink Watkins, Jr., convicted of murder in the second degree; felonious assault and battery in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on April 12, 1943, computed from January 1, 1943 be commuted from 14 years to 13 years, 2 months expiring on March 21, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 21, 1957.

For the reason that this applicant has served a long time on parole, and the further reason that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert Williams, 4786-A, No. 4122, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Robert Williams, convicted of robbery, armed with an offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions on July 30, 1928, be commuted from a maximum term of 3 years on Bill No. 1234 to a new maximum term of 2 years, 10 days, expiring on May 30, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 30, 1958.

For the reason that this applicant has served a long time on parole, and the further reason that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Willie Gentry Wynegar, E-4219, No. A-2878, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Willie Gentry Wynecar, convicted of burglary, larceny and receiving stolen goods in the Court of Oyer and Terminer and Quarter Sessions of York County on January 18, 1954, computed from December 15, 1953 be commuted from 2½ years to 2 years, 3 months, 10 days expiring on March 25, 1956.

Our reasons for making this recommendation are as follows:

This applicant was sentenced for the crime of larceny and receiving stolen goods. He was sentenced for from 2½ to 5 years, effective December 15, 1953, and is now confined in the State Penitentiary at Rockview.

The applicant's offense consisted of entering a number of business places in York County and stealing money and merchandise.

The sentencing Judge, the Honorable Walter I. Anderson, expressed his opposition to the commutation of this sentence, but the District Attorney of York County, however, stated that he was not opposed to the commutation of his minimum sentence.

During the applicant's incarceration the applicant has made a satisfactory institutional adjustment. He is a first offender and his progress in the institution has been most favorable.

The applicant is married and has nine children, the oldest being nineteen years of age and the youngest being three years of age. From reports received by the Board this family is in straitened circumstances, depending entirely upon the assistance received from the State and from private charities. The family is undergoing extreme hardship.

The Board believes that this man, who has only a prior juvenile record of one offense, and has served almost his entire minimum sentence, should be released because no good purpose can be achieved by having him remain in the custody of the State for a period of less than four months. The Board, therefore, recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
NOT SITTING,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Raymond Zemaitis, No. 3480, No. 84, February Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Raymond Zemaitis, convicted of robbery, being armed with offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 7, 1934, computed from June 19, 1942 be commuted from 20 years to 13 years, 9 months, 10 days expiring on March 29, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 19, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Oliver Barks, 9216-C, No. 9454, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Oliver Barks, convicted of murder, in the second degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on December 1, 1943 be commuted from 15 years to 12 years, 5 months expiring on May 1, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 1, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter Bell, 7771-C, No. 6890, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Walter Bell, convicted of burglary; breaking and entering, and larceny in the Court of Quarter Sessions of Westmoreland County on April 26, 1938, computed from April 23, 1938 be commuted from 20 years to 18 years, 1 month expiring on May 23, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 23, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Hugh Berger, 6358, No. 7095, September Session, 1955. (Recommended March Session).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Hugh Berger, convicted of burglary and attempt to commit larceny in the Court of Quarter Sessions of Lawrence County on September 20, 1940, computed from August 18, 1940 be commuted from 16 years to 15 years, 9 months expiring on May 18, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until August 18, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Albert Bobnic, 5125-D, No. A-3521, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Albert Bobnic, convicted of armed robbery; robbery with accomplice and burglary in the Court of Oyer and Terminer of Fayette County on September 5, 1940, computed from July 27, 1940 be commuted from 20 years to 15 years, 10 months expiring on May 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the

applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 27, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Joseph Breslin, No. A-3389, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that William Joseph Breslin, convicted of aiding and abetting a lottery in the Court of Quarter Sessions and Oyer and Terminer of Montgomery County, on February 20, 1948 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-six years of age. He was sentenced by the Quarter Sessions Court of Montgomery County on February 20, 1948, for the crime of aiding and abetting a lottery and was placed on six months probation.

It appeared that the applicant, who was employed by the Autocar Company in Ardmore, Pennsylvania, carried in a sealed envelope the bets made by the employees in the plant to a person located outside the plant. The police picked him up when he was engaged in that activity. The applicant maintains that this was the only time he acted as a messenger for his fellow employees.

The trial judge, the Honorable George C. Corson, states: "If you feel that this man should receive a pardon and that he is being handicapped in his business because of the record against him, I would be perfectly satisfied to have such pardon granted." The district attorney of Montgomery County stated to the Parole Agent that he was opposed.

The investigation relative to this application discloses that the applicant is buying his own home, where he resides with his wife and two children. At present he is a real estate broker, having been licensed by the Commonwealth. The applicant states that the record of this offense is interferring in the development of his real estate and insurance brokerage business. This applicant has demonstrated his ability to take his place in society and conduct himself in a very satisfactory manner. His activity in business, his interest in a home and family, all indicate that he will not again offend the laws of this Commonwealth in the future.

The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT—Dissents,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Margie Butler, 5581-D, No. A-323, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Margie Butler, convicted of murder, in the second degree, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on October 26, 1942, computed from August 21, 1942 be commuted from 20 years to 13 years, 9 months, expiring on May 21, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of her adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing her record. But for this action the applicant, because of her sentence, would remain on parole until August 21, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends her for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that she be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter J. Carterwright, A-14413, No. ———, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Walter J. Carterwright, convicted of burglary and receiving stolen goods on December 3, 1925, be commuted from a maximum term of 6 years to a new maximum term of 5 months, expiring on May 3, 1956.

Our reasons for making this recommendation are as follows:

Under the practice following in Noveber 1925 the sentences of this applicant were compiled and entered on the records as a minimum of 18 years and a maximum of 36 years. Under the ruling of the Supreme Court in the case of Commonwealth of Pennsylvania, ex rel., Thomas

Lynch v. Stanley P. Ashe, Warden of the Western State Penitentiary, the practice of lumping sentences was declared to be without legal justification. The Pardon Board in 1936 agreed to a formula which provided, in effect, that those prisoners sentenced before the opinion was handed down in the Lynch case would not be adversely affected. However, the applicant had been transferred to Farview State Hospital on December 20, 1943 and was only returned from Farview State Hospital on February 10, 1956, and, therefore, was not given the right to apply for parole at the expiration of his minimum sentences.

Under the ruling of the Supreme Court as set forth, this applicant will be compelled to serve more time than the combined total of his minimum sentences before he will be eligible for release on parole.

Therefore, the Warden of the Western State Penitentiary, prepared and forwarded to us forms as used in all previous cases under this ruling of the Supreme Court, which form is attached herewith.

This applicant is 56 years of age. He was confined in the Farview State Hospital for 12 years and 2 months, and has been continuously imprisoned for more than 30 years. He has no prior criminal record.

The Board, in view of the decision of the Supreme Court, and in view of the fact that this applicant had no prior record, and has served more than 30 years, and the further fact that the authorities at the institution consider the applicant a suitable subject for parole, recommend that his maximum sentence on Bill No. 101, November Sessions, 1925, be commuted to a maximum of 5 months, to expire on May 3, 1956.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter Clark, 467, No. A-1456, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Walter Clark, convicted of assault with intent to commit robbery; felonious assault in the Court of Oyer and Terminer of Allegheny County on May 19, 1939, computed from April 25, 1939 be commuted from 18 years to 17 years, 1 month, expiring on May 25, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 25, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Samuel D'Amore, 2120-D, No. 6308, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Samuel D'Amore, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 5, 1940, computed from December 11, 1939 be commuted from 20 years to 16 years 5 months, expiring on May 11, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 11, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry Doern, 4023-B, No. A-1812, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harry Doern, convicted of assault with intent to commit armed robbery; felonious assault in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on May 19, 1939, computed from April 25, 1939 be commuted from 20 years to 17 years, 1 month, expiring on May 25, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on

the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 25, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Dostellio, No. 3493, February Session, 1956. (Recommended March 1956 Session).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that William Dostellio convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Delaware County, on June 18, 1935 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-three years of age. He was born in Italy. He was sentenced by the Oyer and Terminer Court of Delaware County for the crime of robbery for from 10 to 20 years, effective June 18, 1935. His minimum sentence was commuted and he was released on parole on January 14, 1944. Since his release the applicant has been employed by various concerns and at present he is employed by the Yellow Taxicab Company of Chester, Pa.

It appears that recently this applicant was involved in a raid on a gambling house in 1953, in Chester, Pa. However, a letter from Captain Tossoni, of the Chester Police Department, states that the applicant was directed by the Police Department to enter these premises as a "spotter" and helped the police effect an entrance into the gambling establishment. Captain Tossoni states: "I further wish to inform the Board that since Dostellio has been released from prison in 1944, I see him on the streets daily and I can truthfully state that he has conducted himself in a proper manner, has been in no trouble whatsoever, and appears to me to have become fully rehabilitated." The President Judge, the Honorable Henry G. Sweney, states: "I see no reason why this man should not be granted a pardon."

The Board of Immigration has detained this applicant for deportation on the basis of his not being a citizen and becoming involved in a criminal offense.

The Board of Pardons beleves that this applicant, who for the past ten years or more, has conducted himself in a proper manner, and was received the commendation of his fellow citizens, is deserving of the mercy of this Commonwealth. The Board, therefore, recommends a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Thomas R. Ficklin, No. A-3518, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Thomas R. Ficklin, convicted of Conducting a Lottery in the Court of Quarter Sessions of Allegheny County, on January 12, 1943 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-six years of age. He was sentenced for from 5 days to 6 months in the Allegheny County Prison, on January 12, 1943. On January 18, 1943 he was paroled.

Since this applicant's release he has conducted himself in a very satisfactory manner. At the present time he is active in church work, Bible School and the Men's Brotherhood, and Y.M.C.A. work.

This applicant attended the University of Pittsburgh taking a course in real estate. He successfully passed the examination of the State Realtor's Board for a salesman's and broker's license and is now doing his own real estate business known as the "Paulson Realty Company." It is located in Pittsburgh, Pa.

This applicant is married and resides with his wife and three children in the City of Pittsburgh.

The trial judge, the Honorable J. Frank Graff, states: "As far as my connection with the case is concerned, I have no objection to any action which the Board may see fit to take." The district attorney of Allegheny County likewise stated that he has no objection to the granting of this request.

The Board, in view of the excellent record that this applicant has made since his offense in 1943, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Nicholas Forlano, B-7608, No. A-2265, February Session, 1956. (Recommended March 1956 Session).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Nicholas Forlano, convicted of robbery, etc.

in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on February 9, 1944, computed from January 15, 1944 be commuted from 20 years to 12 years, 4 months expiring on May 15, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He was sentenced for the crime of robbery by the Oyer and Terminer and Quarter Sessions Court of Philadelphia for from 20 to 40 years, effective January 15, 1944.

The applicant, with several accomplices, burglarized business establishments in Philadelphia. Cash in the sum of One Thousand Dollars was secured and about nine automobiles were stolen.

The President Judge, the Honorable Joseph L. Kun, stated that since he had no first hand information on this case he would rely on the Board. The district attorney of Philadelphia states: "Forlano has been punished, at this time, more than the other two men, and I think that that is as it should be. While my position at the hearing was one of opposition, I did not intend for it to be a barrier to this man's release at the present time. If the Board is inclined to grant this defendant clemency, this office would modify its position to one of no opposition at this time."

The prison authorities state that since 1948 the applicant has had an unblemished disciplinary record and has developed insight and control of his behaviour and impulses. The applicant has served over twelve years of his twenty year minimum sentence while his two accomplices were granted commutation,—Simmonette in December 1954 and Calucci in March 1955.

The Board believes that this man has been sufficiently punished and they are of the opinion that if the applicant is released he will conduct himself in a satisfactory manner. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Alphonso Giannone, 8539-C, No. 5863, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Alphonso Giannone, convicted of robbery; conspiracy, aggravated assault and battery, in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on March 28, 1939, computed from December 10, 1938 be commuted from 20 years to 17 years, 5 months expiring on May 10, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 10, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert Jackson, 3867-A, No. 2869, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Robert Jackson, convicted of burglary, robbery while armed in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 8, 1931 be commuted from 20 years to 5 years, 1 month expiring on May 8, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 8, 1971.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Albert Jones, 7051-C, No. A-3494, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Charles Albert Jones, convicted of armed robbery; robbery with accomplice; robbery with violence in the Court of Oyer and Terminer of Fayette County on February 6, 1940, computed from December 24, 1939

be commuted from 25 years to 16 years, 5 months expiring on May 24, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 24, 1964.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert James Karl, 3702-D, No. 8604, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Robert James Karl, convicted of burglary, larceny, receiving stolen goods, carrying deadly weapons, etc. in the Court of Oyer and Terminer of Blair County on September 25, 1944, computed from September 15, 1944 be commuted from 30 years to 10 years, 8 months expiring on May 15, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 15, 1974.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Stanley I. Martin, 6443-D, No. 2582, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Stanley I. Martin, convicted of rape, robbery in the Court of Oyer and Terminer of Allegheny County on June 19, 1928 be commuted from 15 years to 7 years, 11 months, expiring on May 19, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 19, 1963.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles E. Miller, D-7927, No. A-1602, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Charles E. Miller, convicted of burglary; larceny; assault and battery; aggravated assault and battery in the Court of Quarter Sessions of Delaware County on October 11, 1944, computed from August 2, 1944 be commuted from 16½ years to 11 years, 9 months, 20 days, expiring on May 22, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age. He was sentenced by the Quarter Sessions Court of Delaware County for from 16½ to 33 years in the Eastern State Penitentiary on August 2, 1944.

This applicant, together with four accomplices, burglarized several gasoline stations and, while awaiting trial, they were incarcerated in the Delaware County Prison, where they attempted a prison break. The accomplices, with the exception of one, all received light sentences. This applicant received a severe sentence from the late Judge McDade.

The President Judge, the Honorable Henry G. Sweney, states to the Board: "If the prison authorities feel that this man has made a real adjustment I would have no objection to his being released at this time." The district attorney of Delaware County stated that he had no ob-

jection to the granting of commutation provided he would be released in another year.

The prison authorities state that this applicant's attitude has been favorable and he has established and maintained an unblemished disciplinary record. There is every indication that this applicant, while incarcerated, has made a very satisfactory adjustment.

The Board believes that this applicant, having served almost twelve years of a sixteen and one-half year minimum sentence, has probably reached the peak of his rehabilitation and since there is every indication that if released to society he will conduct himself in a satisfactory manner, the Board recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT—Dissents,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George E. Mills, No. A-3519, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that George E. Mills, convicted of violation of the State Liquor Law in the Court of Quarter Sessions of Allegheny County, on December 1, 1944 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age. He received suspended sentences from the Quarter Sessions Court of Allegheny County for a violation of the State Liquor Law, on December 1, 1944.

The applicant was conducting a rooming house in Pittsburgh and on the premises they were selling alcoholic beverages without a license.

Since the offense in 1944, the applicant has conducted himself in a satisfactory manner. However, it is to be noted that he was accused of a violation of the Firearms Act in 1954, but was found not guilty of the offense.

At the present time this applicant is a manager of the Casa Blanca Bar and Grill in Pittsburgh. This real estate is owned by his wife, who is the proprietor although he acts as the manager.

The applicant has had a liquor license since 1951, which was granted by the State Liquor Control Board, and the record indicates that he has conducted this bar and grill in a satisfactory manner. The applicant, and his wife, own the building in which the bar and grill are located.

President Judge William H. McNaugher states: "Apparently he has no other criminal record and I would have no objection to the granting of a pardon if the Board is in agreement with such action." The district attorney of Allegheny County stated to the Board that he had no objection.

The applicant has two daughters, ages eighteen and nineteen.

The Board believes this applicant will continue to conduct himself in a satisfactory manner, and for his future progress in business, recommends a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Thomas Newman, 6975-D, No. A-3520, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Thomas Newman, convicted of robbery; felonious breaking and entry and larceny in the Court of Quarter Sessions of Washington County on April 2, 1938, computed from March 26, 1938 be commuted from 20 years to 18 years, 2 months, expiring on May 26, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 26, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Simpson, 1033-D, No. 7390, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Simpson, convicted of being armed with an offensive weapon to rob in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 10, 1939, computed from April 13, 1939 be commuted from 20 years to 17 years, 1 month, expiring on May 13, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 13, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Wilhemina Spence, 7984-D, No. 8508, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Welhemina Spence, convicted of murder, in the second degree in the Court of Oyer and Terminer of Delaware County on September 30, 1941, computed from July 7, 1941 be commuted from 20 years to 14 years, 10 months, expiring on May 7, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until Juy 7, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Barney Wacht, 1030-D, No. 5503, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Barney Wacht, convicted of robbery, being armed with an offensive weapon, felonious entry in the Court of Oyer and Terminer and Quarter Sessions of Montgomery County on April 12, 1933, computed from February 24 ,1933 be commuted from 20 years to 13 years, 3 months, expiring on May 24, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 24, 1963.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert Webb, 77477, No. A-3511, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Robert Webb, convicted of larceny in the Court of Quarter Sessions of Butler County on August 31, 1955 be commuted from 1 year to 9 months expiring on May 31, 1956.

Our reasons for making this recommendation are as as follows:

This applicant is twenty-seven years of age. He was sentenced by the Quarter Sessions Court of Butler County for the crime of larceny for from 1 to 3 years, in the Allegheny County Workhouse, effective August 31, 1955.

The applicant, with two accomplices, were building a cottage in Slippery Rock Park area and they were helping themselves to various items to be used in the construction of the cottage from surrounding neighbors.

The trial judge, the Honorable Clyde S. Shumaker, stated to the Parole Agent that he did not object to the commutation of sentence. Likewise, the district attorney of Butler County also stated to the agent he would not object to the commutation of sentence.

The applicant's former employer, Raymond Brass and Manufacturing Company, states that his work record was satisfactory and they will offer him employment upon his release.

The applicant had no prior criminal record except

motor violations for which he received a small fine. He was honorably discharged from the United States Navy and his reputation in his community is good.

The Board believes that this young man has been taught a lesson in not taking property of other persons and that he will conduct himself in the future in a satisfactory manner. The Board, therefore, recommends that his sentence be commuted when he has served nine months, effective May 31, 1956.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George S. White, Jr., E-5694, No. A-2095, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of George S. White, convicted of burglary in the Court of Quarter Sessions of Philadelphia County on January 13, 1949, computed from June 29, 1948 be commuted from 10 years to 7 years, 11 months expiring on May 29, 1956.

Our reasons for making this recommendation are as as follows:

This applicant is twenty-six years of age. He was sentenced by the Oyer and Terminer Court of Philadelphia County for from 10 to 20 years for the offense of burglary, to the Philadelphia County Prison, effective June 29, 1948. He is presently confined in the State Penitentiary at Graterford.

The applicant, together with a group of about eighteen other boys were involved in a series of robberies and burglaries and were sentenced by the late Judge McDevitt. Thirteen of these boys were minors and were sent to the Pennsylvania Industrial School. This young man, who had no previous record, received a severe sentence in view of his age.

Since his incarceration the authorities report that he has improved very much and the overall picture from the institutional authorities is most favorable. The staff of the pentitentiary reports that he seems to have acquired a good insight into his behavior and toward his future adjustment.

The president judge, the Honorable Joseph L. Kun, states that he would rely upon the Board. Likewise, the district attorney of Philadelphia County stated he would not oppose the granting of clemency.

The Board believes that this young man, if released, will conduct himself in a satisfactory manner and from all indications he has reached the peak of his rehabilitation. The Board, feeling that this young man should be given an opportunity to prove his ability to conduct himself in society in a proper manner, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Williams, 6978-D, No. A-3487, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Williams, convicted of armed robbery, in the Court of Quarter Sessions of Washington County on March 26, 1938, be commuted from 20 years to a new maximum of 18 years, 2 months, expiring on May 26, 1956; and further recommend that the maximum sentence of James Williams, convicted of robbery and holdup, in the Court of Oyer and Terminer of Westmoreland County on June 2, 1939, be commuted from 18 years to a new maximum of 16 years, 11 months, 20 days, expiring on May 26, 1956.

Our reasons for making this recommendation are as as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 26, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Marshall R. Wittman, D-7855, No. 9745, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Marshall R. Wittman, convicted of burglary and robbery in the Court of Quarter Sessions and Oyer and Terminer of Berks County on August 30, 1944 be commuted from 15 years to 11 years, 9 months expiring on May 30, 1956.

Our reasons for making this recommendation are as as follows:

This applicant is twenty-nine years of age. He was

sentenced for the crime of robbery and burglary for from 15 to 30 years in the Eastern State Penitentiary by the Oyer and Terminer Court of Berks County, effective August 30, 1944.

The applicant was arrested as a juvenile and later returned to the Berks County Prison. He escaped from the Berks County Prison at which time he, and his accomplice, took possession of a dwelling and hid from the police. Later, they were surrounded in this dwelling and were captured.

This applicant has a most unfortunate boyhood, as his father was a brutal and unfeeling person, causing this applicant to sleep in sheds on the farm and preventing him from entering the home even to obtain water. The applicant was being beaten by his father with an axe handle and to prevent a brutal beating he shot his father. The applicant then was only 15 years of age. His subsequent conduct is understandable in view of his boyhood experiences.

The trial judge is no longer on the bench. The President Judge, H. Robert Mays, advised the Parole Agent that he will make no recommendation to the application but leaves the matter to the discretion of the Board. Likewise, the district attorney of Berks County stated that he relied entirely on the Board.

The staff in the State Penitentiary at Graterford stated that his overall attitude is favorable and that he has profited a great deal from his incarceration and they believe he is now a good parole risk, and further incarceration will probably have little value. The Board believes that this young man, who suffered so thoroughly as a youth, will conduct himself in a satisfactory manner if released. The Board, therefore, recommends commutation.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Lee Yanero, 7916-C, No. 5067, March Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Lee Yanero, convicted of murder, second degree in the Court of Oyer and Terminer and Quarter Sessions of Carbon County on Ocotber 17, 1938, computed from September 5, 1938 be communted from 20 years to 17 years, 8 months expiring on May 5, 1956.

Our reasons for making this recommendation are as as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 5, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Angelo, No. A-3532, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Joseph Angelo, convicted of robbery and larceny in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County, on January 17, 1930 be pardoned.

Our reasons for making this recommendation are as as follows:

This applicant is forty-one years of age. He plead guilty ot the offense of robbery, larceny of automobile and larceny in the Courts of Allegheny County and was sentenced for from five to ten years in the Allegheny County Workhouse.

The applicant was paroled on October 17, 1932, and since that time he has conducted himself in an exemplary manner. He has been employed in various steel mills throughout the Western part of Pennsylvania.

The applicant is active in the United Steel Workers of America and has risen to the position of Sub-district Director in the State of California. The applicant is now a resident of the City of Richmond, California. The California Board of Parole submitted to us a report in which they state: "From all indications subject has made a very satisfactory adjustment and the recommendation for clemency would be in order."

The trial judge is deceased. The Assistant District Attorney of Allegheny County stated to the Board that his office was not opposed to the granting of clemency.

The Board believes that this applicant, who has conducted himself so admirably for the past twenty-four years is deserving of the mercy of the Commonwealth and, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Berydas, 3822-C, No. 9070, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due

public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Charles Berydas, convicted of being armed to rob in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 13, 1940, computed from March 2, 1940 be commuted from 50 years to 16 years, 3 months expiring on June 2, 1956.

Our reasons for making this recommendation are as as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 2, 1990.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Max Asherman, No. A-3564, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Max Asherman, cnovicted of receiving stolen goods and conspiracy in the Court of Oyer and Terminer of Philadelphia County, on December 18, 1940 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-nine years of age. He plead guilty to the offense of receiving stolen goods and conspiracy on the eighteenth day of December 1940 and was sentenced for from two months to two years in the Philadelphia County Prison.

The offense consisted of purchasing about one dozen watches for the old gold. It appeared that this merchandise had been stolen by the seller and there is some question as to whether or not the applicant was aware of the character of the merchandise. The applicant plead guilty, however, to the charge and made restitution to all concerned.

Since the release of the applicant from the County Prison in 1941, he has been steadily employed. He is associated with a business known as the Quakertown Cooperative.

The applicant is married and the report the Board received indicates that he has conducted himself in an exemplary manner since his release from the County Prison fifteen years ago.

The District Attorney of Philadelphia County is not opposed to the granting of this pardon and the sentencing judge, the Honorable Francis Shunk Brown, Jr., likewise states he is not opposed.

The applicant desires this pardon so that he may be able to obtain business credit, which he is prevented from so doing by reason of his prior record.

The Board recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Berman, No. A-3569, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that William Berman, convicted of receiving stolen goods in the Court of Oyer and Terminer of Philadelphia County, on May 26, 1924 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is now fifty-six years of age and was sentenced by the Oyer and Terminer Court for the crime of receiving stolen goods. The applicant plead guilty to the offense and on the same day received a suspended sentence.

The offense consisted in purchasing a diamond ring from a thief. The thief was later apprehended and in that manner the applicant became involved in the offense. The applicant returned the ring to the real owner making complete restitution.

The applicant is now involved in a deportation action and the Board is informed that if this offense is pardoned he will be able to avoid deportation.

The applicant is married and resides with his wife and family. The investigation reveals that he is presently employed by the Sterling Metalware Company, and that his earnings are substantial.

The trial judge, the Honorable Hazel H. Brown, states: "I know of no reason why the pardon should not be granted." The district attorney of Philadelphia County is not opposed to the granting of clemency.

The Board recommends that this offense be pardoned so that the applicant need not be deported.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Norman Billett, 5528-A, No. 8476, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Norman Billett, convicted of robbery, assault and battery with intent to rob; agg. assault and battery; robery w/o weapon in the Court of Oyer and Terminer of York County on August 28, 1940, computed from October 8, 1941 be commuted from 18 years to 14 years, 8 months expiring on June 8, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 8, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Alexander P. Capp, 6717-D, No. 8218, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Alexander P. Capp, convicted of murder, in the second degree in the Court of Oyer and Terminer of Allegheny County on April 2, 1940, computed from October 25, 1939 be commuted from 20 years to 16 years, 8 months expiring on June 25, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 25, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Philip C. Checchia, No. A-3545, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Philip C. Checchia, convicted of possession of burglary tools and setting up an illegal lottery in the Court of Quarter Sessions of Philadelphia County, on January 31, 1927 and May 10, 1933 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age. The applicant was found guilty of the offense of possession of burglary tools in Jauary 1927 and was placed on probation for three years; and in May 1933 he plead guilty to an offense of setting up an illegal lottery and was placed on probation for a period of one year. The applicant, in fact, has never served any time in prison, or any penal institution.

The applicant has, since 1933, been steadily employed in various business places in Philadelphia. At present the applicant is engaged in manufacturing and marketing fishing lures and tackle. In order to expand his business, which thus far has proved rather successful, it is necessary for him to obtain credit, and he states the record of these two offenses some twenty-five years ago, has interfered with his advancement.

The District Attorney of Philadelphia County stated to the Board that he was not opposed to the granting of clemency in this matter. The trial judge is deceased.

During the years the applicant has conducted himself in an exemplary manner and he served in the United States Armed Forces in 1945 and received an honorable discharge.

The Board believes that this man is deserving of the mercy of the Commonwealth and, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harold E. Doriot, 2100-C, No. 4142, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harold E. Doriot, convicted of robbery in the Court of Oyer and Terminer of Westmoreland

County on August 29, 1934, computed from August 29, 1934 be commuted from 32 years to 21 years, 10 months, expiring on June 29, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until August 29, 1966.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Ellison, 4069-B, No. A-129, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Charles Ellison, convicted of assault together with other persons with intent to rob in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on October 29, 1942, computed from October 20, 1942 be commuted from 20 years to 13 years, 8 months, expiring on June 20, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 20, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Paul Kenefsky, 7277-A, No. 3504, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Paul Kenefsky, convicted of burglary, possession of burglary tools in the Court of Quarter Session of Montgomery County on November 12, 1942, computed from February 10, 1949 be commuted from 10 years to 7 years, 4 months, expiring on June 10, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 10, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Sam Kosky, 7757-C, No. 6887, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Sam Kosky, convicted of receiving stolen goods, robbery, larceny, assault and battery in the Court of Oyer and Terminer of Allegheny County on January 8, 1942 be commuted from 15 years to 14 years, 5 months, expiring on June 8, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 8, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.

(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter Kunkle, 5912-D, No. A-3524, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Walter Kunkle, convicted of rape and adultery in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on June 13, 1945, computed from June 13, 1945 be commuted from 15 years to 11 years, expiring on June 13, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 13, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of John Henry Linn, No. 2446, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that John Henry Linn, convicted of arson and accessory to arson in the Court of Quarter Sessions of Columbia County, on March 29, 1953 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age. He was sentenced by the Quarter Sessions Court of Columbia County for from five to ten years in the Eastern State Penitentiary for the crime of Arson, and Accessory to Arson, in March 1933.

The applicant plead guilty, together with accomplices, to setting fire to two buildings in Columbia County. These young men were all members of a volunteer fire company and set these unoccupied buildings afire for the purpose of fighting the fires and the resulting excitement.

The minimum sentence of this applicant was commuted in November 1953 and since that date he has lead a law-abiding life.

The District Attorney of Columbia County, the Honorable Howard R. Berninger, states that his office is not opposed to the granting of clemency. Likewise, the Chief Probation Officer of Columbia County states: "After discussing the matter with Judge Kreisher, after my investigation, he has asked me to inform you that this Court will not oppose this petition for clemency."

The applicant is married, has four children and resides in his own home in Berwick, Pa. At present he is employed as a die-maker in the American Car and Foundry Company of Berwick, Penna.

The Board believes that this man, who has lead an exemplary life for the past twenty years, is entitled to the mercy of the Commonwealth, and, therefore, recommend that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Miller, No. A-3550, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Joseph Miller, convicted of receiving stolen goods in the Court of Quarter Sessions of Allegheny County, on January 31, 1947 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age. He plead guilty to the offense of receiving stolen goods on January 31, 1947, received a suspended sentence, and was placed under probation for five years. His offense consisted of purchasing a quantity of cigarettes from a truck driver employed by the Enright Cigar Company. The truck driver had evidently stolen this merchandise from his employer and then sold it, at a reduced figure, to the applicant.

The applicant made complete restitution and he was released from probation in about one year following the sentence. Since that time the applicant has conducted himself in a very satisfactory manner.

The applicant resides in Pittsburgh in a good residential area with his wife and two children. At present he is employed as Manager of a business known as Miller's Cafe, Pittsburgh, Pa. The report indicates that the place is well furnished, and gives the appearance of a well-organized and well-operated business. It might be said that this business is owned by his father and he is acting as the manager.

The trial judge, the Honorable Samuel A. Weiss, states that "I have no objection to whatever action the Board may take." The Assistant District Attorney of Allegheny County stated to the Board that all reports indicate the applicant is a law-abiding citizen and he has no objection to the granting of clemency. The Board, therefore, recommends a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Marion Miller, 6330-C, No. 8949, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Marion Miller, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 13, 1943, computed from April 19, 1943 be commuted from 40 years to 13 years, 2 months expiring on June 19, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 19, 1983.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Carl Muehleisen, 4648-C, No. 7024, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Carl Muehleisen, convicted of robbery in the Court of Oyer and Terminer of Allegheny County on June 21, 1939, commuted from January 18, 1939 be commuted from 30 years to 17 years, 5 months expiring on June 18, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 18, 1969.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Henry Reed, 5124-C, No. 7765, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Henry Reed, convicted of burglary and armed robbery in the Court of Oyer and Terminer of Allegheny County on January 13, 1943, computed from November 28, 1942 be commuted from 20 years to 13 years, 7 months expiring on June 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 28, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Agabito Rocchi, No. A-3566, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Agabito Rocchi, convicted of voluntary manslaughter in the Court of Oyer and Terminer of Northampton County, on June 26, 1922 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is sixty-five years of age. He was sentenced for the offense of voluntary manslaughter for from six to eleven years in 1922.

The facts of his offense appeared to be that he was invited to the home of the victim and upon entering, the victim made a gesture toward his coat pocket whereupon the applicant shot the victim. It appeared that there had been ill-feeling between the applicant and victim for sometime prior to the fatal shooting.

The applicant was discharged from the Eastern State Penitentiary at the expiration of his minimum sentence, and since that time has conducted himself as a law-abiding citizen.

The Board has a letter from the District Attorney of Northampton County in which he states: "This office recommends that the pardon be granted to him." Likewise, the President Judge, the Honorable William C. Barthold, states that the propriety of the granting of a pardon is left to the discretion of the Board.

Inquiry by the Board of Parole reveals that the applicant enjoys an excellent reputation in Easton and that he is now residing in his own home with his son and son's wife. The applicant is a widower.

The applicant is employed as a painter doing interiors and exteriors of homes in the Easton area. The Board has in its file numerous letters from individuals and associations in Easton speaking of the fine character and reputation of the applicant.

The applicant, due to a visit to Italy several years ago, has run into difficulty with the United States Department of Immigration and he is in danger of being deported. It would appear that a pardon is required in order to avoid deportation.

In view of the excellent reputation that the applicant bears and the law-abiding life he has lived for the past twenty-five years, the Board has no hesitancy in extending the mercy of the Commonwealth, and, therefore, recommends a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Anthony P. Russo, No. 8660, April Session 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Anthony P. Russo, convicted of highway robbery; entering a building and larceny, in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County, on June 27, 1938, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty years of age. He was sentenced by the Oyer and Terminer and Quarter Sessions Courts of Allegheny County for the crimes of armed robbery; breaking and entering and larceny, and received a sentence of for from six to twelve years in the Allegheny County Workhouse in June 1938.

His offenses consisted in the breaking and entering of several business places and also holding up a motorist on the highway. In all these offenses the applicant, or his accomplices, were armed. The applicant plead guilty.

The Board of Pardons, on the tenth day of March 1948 commuted the maximum sentence of the applicant from twelve years to nine years ten months, effective on the twenty-seventh day of March 1948.

Since 1948 the applicant has not been under supervision of the Board of Parole and has proved to be a law-abiding citien. For the past five years he has been engaged in the real estate business and at present conducts his own business known as the Russo Realty Company, in Pittsburgh. He has demonstrated his ability in that field of business.

The applicant is married, has three children and owns his own home. He states it is necessary for him to be bonded in order to carry on his business affairs and he finds that his record interferes with his obtaining a fidelity bond, which he requires from time to time.

The trial judge is deceased. The Assistant District Attorney of Allegheny County stated to the Board that the applicant has proved to be law-abiding and, therefore, there is no objection to a pardon being granted. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY N. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT S. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Edward Santella, 57-C, No. A-67, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph Edward Santella, convicted of robbery, armed with an offensive weapon, in the Court of Quarter Sessions of Westmoreland County on September 3, 1946, computed from September 3, 1946 be commuted from 18 years to 9 years 9 months, expiring on June 3, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 3, 1964.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY N. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT S. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Clifford Clair Shoener, No. A-3549, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Clifford Clair Shoener, convicted of breaking and entering and larceny, in the Court of Quarter Session of Schuylkill County, on January 5, 1937 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-five years of age. He, together with four other young boys, averaging sixteen years of age, were engaged in a series of breaking and entering in Orwigsburg, Schuylkill County, Pa. He plead guilty to the offenses and was sentenced for from five to fifteen years but the sentence was immediately suspended and he was placed on probation in custody of the Probation Officer.

The applicant has married since the offenses took place. He owns his own home and is the father of six children. He is employed by Rau Brothers of Hamburg, Pa., dealers in electrical appliances, as a repairman.

The applicant is very much interested in the United States Army Reserve and is at present a Master Sergeant in the 310th Transportation Company. His Commanding Officer personally appeared and spoke very highly of the character and ability of the applicant.

The Honorable Cyrus M. Palmer writes the Board as follows: "I am in favor of granting a pardon." The District Attorney advised the Board of Parole he would leave the matter entirely to the discretion of the Board.

The Board believes that this young man, who has proved his ability as a citizen, as a skilled workman, as a non-commissioned officer in the United States Reserve, is entitled to the mercy of the Commonwealth, and the Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY N. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT S. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Haskel Watson, 825-B, No. 4123, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Haskel Watson, convicted of murder, in the first degree, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on October 19, 1925 be commuted from life imprisonment to 30 years 8 months, expiring on June 19, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY N. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT S. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ralph E. Wright, Jr., 5725-D, No. A-163, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Ralph E. Wright, convicted of burglary, larceny in the Court of Oyer and Terminer of Perry County on May 15, 1945, computed from March 28, 1945 be commuted from 20 years to 11 years, 3 months expiring on June 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 28, 1965.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Ziegler, 1411, No. 6581, April Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William Ziegler, convicted of robbery, and being armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 4, 1937, computed from April 4, 1940 be commuted from 20 years to 16 years, 2 months expiring on June 4, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 4, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Kenneth Aldrich, 1667-D, No. A-3597, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Kenneth Aldrich, convicted of breaking and escaping prison; larceny of auto; in the Court of Quarter Sessions of Centre County on August 9, 1944, computed from August 8, 1944 be commuted from 20 years to 12 years expiring on August 8, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until August 8, 1964.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Raymond Barkowski, 6572-C, No. A-3596, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Raymond Barkowski, convicted of burglary in the Court of Quarter Sessions of Allegheny County on June 8, 1943, computed from that date be commuted from 15 years to 3 years, 1 month, 10 days expiring on July 18, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 8, 1968.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Cecil Barton, 5130-E, No. A-3636, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Cecil Barton, convicted of killing a human being by mistake in the Court of Quarter Sessions of Bradford County on February 10, 1956, computed from March 1, 1956 be commuted from 2 years to 3 months, 10 days, expiring on June 11, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age. He was sentenced by the Quarter Sessions Court of Bradford County for the crime of killing a human being by mistake under the game laws of this Commonwealth. He was sentenced

to two years in the Bradford County Prison, plus a fine of $500.00, effective March 1, 1956.

It appears that the applicant, his wife and a friend of many years standing, went out on their annual hunting trip for deer in the Fall of 1955. They had made two drives prior to the accident and on the third drive the applicant was going along the upper ridge when he saw a movement in the bushes about twenty-five yards in front of him. He believed he saw the tail of a deer. The victim heard the applicant shout that he was going to shoot and replied: "Go ahead and shoot." When the applicant did shoot he had shot his friend in the right side of the face and he was dead.

The applicant and the victim were both friends of many years standing and there was no indication that any feeling of unfriendliness, malice or hatred had existed between them. The tragedy was a pure accident although under the game laws the applicant was properly indicted and sentenced.

The sentencing judge, the Honorable William M. Rosenfield, stated that the "killing was inexcusable and seemed to disturb a great many of the careful hunters who have expressed their approval of this sentence." The district attorney of Bradford County stated he had no objection to clemency.

The applicant is an employee of the Lehigh Valley Railroad Company, and the sentencing judge permits the applicant to leave the County Prison one day a month to make a run on the railroad in order to preserve his seniority rights.

The Board received a letter from the wife of the victim, under oath, stating that she believes the applicant has been sufficiently punished for this unforunate tragedy. The Board also received word from the present Burgess and past Burgesses of Sayre Borough, Bradford County, requesting a commutation of this sentence. There is also in the file petitions signed by many persons from the Borough of Sayre and County of Bradford, requesting leniency.

The Board believes that this applicant has been sufficiently punished for the unfortunate accident in which his friend was killed and therefore recommends that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Fred Fiore, 4384E, No. A-3413, December Session, 1955. (Recommended May, 1956 Session).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Fred Fiore, convicted of bribery in the Court of Quarter Sessions of Allegheny County on April 2, 1954, computed from October 10, 1955 be commuted from 1 year to 8 months, expiring on June 10, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age. He was sentenced by the Quarter Sessions Court of Allegheny County for from one to two years in the Allegheny County Prison for the offense of bribery, effective October 10, 1955.

It appeared that the applicant, in order to influence the Borough Council of Clairton, gave a bribe of one thousand dollars to the Mayor and two Councilmen of that city, for the purpose of influencing their official action in connection with the awarding of a strip mine contract on City-owned property.

The applicant likewise is connected with the construction company which has made a bid for clearing and grading the land on which a large housing development is to be erected in Homestead, Penna. This housing development is a very important project in the Pittsburgh area by reason of the expansion of the Jones-McLaughlin Steel Company. Because of this expansion the City of Pittsburgh will lose over five hundred homes which would be a serious loss to that community. The applicant has undertaken to clear the area for the development project at such a figure that if his company is unable to proceed, the development would be seriously affected.

The Board is in receipt of letters from the Urban Development Authority of Pittsburgh urging clemency. Also before the Board appeared a personal representative of the 15th Ward Chamber of Commerce of Pittsburgh, and personal representatives of the United Steel Workers. These men all stated that Mr. Fiore's management and supervision of this work is vital to the progress and success of this undertaking. The Board understands that the contract has been awarded and that the work is ready to start. It is stated that it is very necessary that this applicant be released so that he can give the job his personal attention.

The Board believes that the general welfare and prosperity of the citizens of the 15th Ward of Pittsburgh should be promoted and that nothing should be done to interfere or delay the progress of this development. Therefore, the Board recommends that clemency be extended to the applicant and that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
NOT SITTING,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Deward B. Flynn, 8261-C, No. 6953, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Deward B. Flynn, convicted of breaking and entering, larceny of auto in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on March 25, 1941, computed from January 4, 1941 be commuted from 10 years to 5 years, 7 months, expiring on August 4, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But

for this action the applicant, because of his sentence, would remain on parole until January 4, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of David A. Geier, 75163, No. A-3678, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of David A. Geier, convicted of sodomy in the Court of Oyer and Terminer of Allegheny County on March 5, 1954, computed from February 11, 1954 be commuted from 3 years to 2 years, 4 months expiring on June 11, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age. He was convicted of the crime of sodomy and sentenced to the Allegheny County Workhouse for from 3 to 10 years, effective February 11, 1954.

The offense consisted of his acts of perversion with young boys in their teens. The applicant is a veteran of the World War II and can be admitted to the Veterans' Hospital in accordance to a letter received from the hospital. Unquestionably, the applicant needs psychiatric treatment which is not available in the Allegheny County Workhouse.

Dr. Lee G. Sewall, a psychiatrist of Pittsburgh, recommends that this applicant be given treatment which would include medication and extensive psychiatric treatment.

At the hearing the assistant district attorney of Allegheny County, Louis Abromson, requested that he be permitted to study the case and write his report to us. The Board is in receipt of a letter in which the assistant district attorney states he has no objection to the granting of commutation in view of the urgent need for psychiatric treatment.

The sentencing judge, the Honorable Harry M. Montgomery, wrote the Board as follows: "I oppose commutation unless medical testimony makes necessary a release prior to the expiration of the minimum sentence."

The Board has, as stated, the opioion of competent medical testimony urging the special treatment for the rehabilitation of this applicant. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Floyd Goodwin, 4013-A, No. 5778, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Floyd Goodwin, convicted of armed robbery, robbery with accomplice, robbery with violence, larceny of automobile, in the Court of Oyer and Terminer of Fayette County on February 6, 1940, computed from December 24, 1939, be commuted from 25 years to 16 years, 7 months, expiring on July 24, 1956; and further recommend that the maximum sentence of Floyd Goodwin, convicted of breaking and escaping prison and larceny of automobile, in the Court of Quarter Sessions of Centre County on August 9, 1944, computed from January 19, 1947, be commuted from 20 years to 9 years 6 months, 5 days, expiring on July 24, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 19, 1967.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Nicholas Goshy, 2197-C, No. 8874, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Nicholas Goshy, convicted of murder, in the second degree in the Court of Oyer and Terminer of Allegheny County on May 20, 1940, computed from March 29, 1940, be commuted from 18 years to 16 years, 4 months expiring on July 29, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the

applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 29, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Irene Green, 3012, No. A-3615, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Irene Green, convicted of murder in the second degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on December 30, 1953, computed from December 29, 1953 be commuted from 20 years to 2 years, 6 months expiring on June 29, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-three years of age. She was convicted of murder in the second degree and sentenced to an indefinite sentence in the State Industrial Home for Women at Muncy, Penna., on December 29, 1953.

The applicant was an employee in a small basement restaurant and the victim, who was a woman weighing over two hundred pounds, came into the restaurant and caused such a disturbance that the applicant, to save herself from injury, ran out of her place of employment. A short time later, the applicant met the victim on the street and this large woman attacked the applicant. In self-defense the applicant picked up a piece of broken glass, or a broken bottle, and stabbed the victim in the neck, causing her death. The applicant plead not guilty but was found by the jury and sentenced for from an indefinite term to a maximum of 20 years in the State Industrial Home for Women.

The trial judge, the Honorable Theodore L. Reimel, stated "I have come to the conclusion now as I did at the close of the trial, that if I were to impose a minimum and maximum sentence upon this defendant, I would have imposed a sentence of not less than two nor more than ten years. I recommend that the application be granted." The district attorney's office stated in writing that there was no opposition to the granting of commutation.

During her incarceration she has conducted herself properly and is mentally and physically able to assume family responsibilities. The applicant had no previous criminal record. The Board believes this killing was in self-defense, and therefore recommends her sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Luther Holden, 1703-C, No 5155, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Luther Holden, convicted of robbery, felonious breaking and entry, larceny in the Court of Quarter Sessions of Washington County on April 2, 1938, computed from March 26, 1938 be commuted from 20 years to 18 years, 4 months expiring on July 26, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 26, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ernest E. Humberston, C-897, No. A-1750, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Ernest E. Humbertson, who plead guilty to burglary, larceny, receiving stolen goods and violation uniform firearms act in the Court of Quarter Sessions and and Oyer and Terminer of Fayette County, on October 25, 1948, computed from August 14, 1948, be commuted from 17 years to 7 years, 10 months, expiring on June 14, 1956, and further recommend that the minimum sentence of Ernest E. Humbertson, who plead guilty to burglary, larceny and receiving stolen property in the Court of Quarter Sessions of Westmoreland County, on March 1,

1949, computed from October 25, 1948, be commuted from 10 years to 7 years, 7 months, 20 days, expiring on June 15, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-five years of age. He was sentenced by the Court of Fayette, Somerset and Westmoreland Counties as he, together with accomplices, was involved in a series of robberies in all three counties. He received a suspended sentence in Somerset County. The sentences were in many instances concurrent so that his total time to be served is 17 to 85 years. The accomplices have all been released by commutation of their sentences. This applicant is the last of the group involved in these robberies.

The sentencing judges in the three counties have expressed no opposition to the extension of clemency. The district attorney of Westmoreland County expressed no opposition to the commutation of sentence.

During his incarceration the applicant has conducted himself in an exemplary manner and the prison staff reports that he has made progress during his confinement and is at present holding an important job in the tag plant. The entire staff believes that he has been rehabilitated and recommends a commutation of sentence

The Board has been advised that this applicant will be under proper supervision and will have a job and a home that will be satisfactory. The Board, therefore, recommends that clemency be extended to this applicant by the Commonwealth, and that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James R. Jackson, No. A-3595, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that James R. Jackson, convicted of larceny in the Court of Quarter Sessions of Tioga County, on April 20, 1938 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty years of age. He received a suspended sentence and was placed on probation for a period of three years for the offense of larceny in April 1938. The offense for which he was sentenced was a youthful indiscrimination of the applicant wherein he and his friend, returning home, saw an overturned automobile on the highway. They removed from this overturned automobile some of its equipment.

The applicant, since this offense in 1938, has conducted himself in a most exemplary manner. He is married, resides with his wife and family in Wellsboro, Penna. During World War II he had a distinguished military record and following the closing of the war he continued his military activities with the Pennsylvania National Guard. At present he is employed by the Commonwealth of Pennsylvania as an Administrative Assistant for Headquarters Detachment 83d Medical Group, Pennsylvania National Guard, Wellsboro, Penna. The applicant is desirous of improving his rank and requires a pardon in order to qualify for advancement.

The Board is in receipt of a letter from the President Judge, the Honorable Charles G. Webb, recommending that a pardon should be granted by the Board. The present district attorney of Tioga County states: "In my opinion, this is a proper case for a pardon since a pardon would serve to clear the record of a responsible citizen.'

Numerous letters are in the file from persons in all walks of life recommending very highly this application for clemency. The Commanding Officer, as well as the First Lieutenant of his Division likewise writes, recommending clemency. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth,
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Joseph Kaminsky, No. A-3456, January Session, 1956. (Recommended May 1956 Session).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that John Joseph Kaminsky, convicted of breaking and entering and larceny in the Court of Oyer and Terminer of Fayette County, on December 30, 1931 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-three years of age. He was sentenced by the Oyer and Terminer Court of Fayette County for the crime of breaking and entering and larceny for from 3 to 6 years, in the Western State Penitentiary.

His offense consisted of breaking into a business place, accompanied by three men and stealing merchandise of the value of about $35.00.

Since his release in 1934 the applicant has conducted himself in a fairly satisfactory manner. He has been employed for the last twenty years by the Republic Steel Corporation.

In November 1955 the applicant was elected Constable of Redstone Township, Fayette County. The Board understands that he is ineligible to act in the office of Constable to which he was elected unless he receives a pardon for the offense committed when he was nineteen years old.

The Board has carefully investigated this applicant and has made numerous inquiries throughout Fayette County as to his character and reputation. The Board is satisfied that his conduct has been satisfactory and as proof of his reputation in his community he was elected the Constable in November 1955.

The Board also has numerous letters from citizens of every walk of life in Fayette County and from the Borough of Republic, setting forth in a very simple way their opinion as to the character and reputation of this applicant.

The Board, therefore, has no hesitancy in recommending that a pardon be granted, and so recommends.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.

(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Steve Lozer, 7205-D, No. 9093, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Steve Lozer, convicted of armed robbery, in the Court of Oyer and Terminer of Allegheny County on November 19, 1946, computed from November 19, 1946, be commuted from 15 years, to 9 years, 8 months, expiring on July 19, 1956

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 19, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Mower, 8663-A, No. 4521, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William Mower, convicted of robbery, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on October 1, 1938, computed from September 8, 1938, be commuted from 20 years to 17 years, 10 months, 10 days, expiring on July 18, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 8, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert Muldrew, 4050-C, No. 9954, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommended that the maximum sentence of Robert Muldrew, convicted of robbery, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 2, 1947, computed from August 14, 1947, be commuted from a maximum of 10 years to a new maximum of 8 years, 11 months, expiring on July 14, 1956; and further recommend that the maximum sentence of Robert Muldrew, convicted of breaking and escaping, in the Court of Oyer and Terminer and Quarter Sessions of Centre County on December 23, 1948, be commuted from a maximum of 10 years to a new maximum of 1 day, expiring on July 15, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 24, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Beatrice Pavusek, No. A-3637, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Beatrice Pavusek, convicted of receiving stolen goods, in the Court of Quarter Sessions of Dauphin County, on February 24, 1953 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-six years of age. She was sentenced for the offense of receiving stolen goods and was placed on probation for a period of twenty-three months, commencing February 24, 1953. She was obliged to make restitution in the amount of $779.00.

This applicant was born in Europe and met her husband in Belgium and married him during World War II. The son of the applicant by her first marriage, came to the United States in 1952 and obtained employment in Harrisburg, Pennsylvania, in Pomeroy's Department Store. The son stole a quantity of merchandise and brought it home. The applicant realized that her son was unable to acquire all this merchandise on the small salary he was receiving, but received it. Upon the arrest of the son, the applicant and her husband became involved as receivers.

Because of this offense the applicant is to be deported and is requesting this pardon so that she may leave the country and re-enter as a permanent resident. The immigration law would prevent her from re-admittance if she did not receive the clemency of the Commonwealth.

The applicant has had no previous record and from all reports she has conducted herself in a very satisfactory manner.

The District Attorney, Huette F. Dowling, stated to the Board that he had no objection to the granting of clemency. The trial judge, the Honorable Paul G. Smith, is not sitting on the Bench on account of ill health, but the President Judge, the Honorable William H. Neely, stated that any action the Board would take would be satisfactory to him. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER—Dissents
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Gregory C. Peterson, No. A-3634, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Gregory C. Peterson, convicted of burglary and larceny in the Court of Quarter Sessions of Washington County, on June 7, 1946 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age. He was sentenced by the Quarter Sessions Court of Washington County for from 1 to 10 years for the crimes of burglary and larceny, effective February 1946.

The applicant was released in 1947 and since his release he has gone to School and taken a civil engineering course and is at the present time employed as a surveyor for the City of Erie, Pennsylvania. Likewise, he is at present continuing his studies at Cannon College, Erie, Penna.

Since his release in 1947 the applicant has lead an exemplary life, has married and has a family and is, in every respect, a law-abiding citizen.

The applicant is desirous of obtaining a pardon in order to take a civil service examination for a better position. He believes that this record would interfere with the successful result of such an examination, as a clear record is a requisite.

The Board is in receipt of many fine letters from citizens of Erie and Washington Counties.

The sentencing judge, the Honorable Roy I. Carson, states that he believes this applicant merits every consideration by the Board.

The Board believes tat this young man has paid bitterly for a youthful offense and has proved, to the satisfaction of his friends and employers, his rehabilitation. Therefore, the Board recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT—Dissents
Secretary of Internal Affairs

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph William Purka, No. A-3639, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Joseph William Purka, convicted of manslaughter in the Court of Oyer and Terminer of Luzerne County, on January 31, 1933 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-six years of age. He was convicted of the crime of manslaughter and sentenced for from 2 to 4 years in the Luzerne County Prison on January 31, 1933 effective September 29, 1932. The applicant was a resident of New York and visited his uncle in Luzerne County. On August 13, 1932 he was invited to attend a party at which there was some drinking. The applicant was delegated to be the "bouncer." During the evening the victim grabbed one of the girls who made an outcry and the applicant went to the aid of the young woman, whereby the applicant was struck in the face by blows from the victim. The applicant knocked the victim to the ground and was set upon by three of the victim's friends. A general fight ensued and in the course of the melee the victim was stabbed and subsequently died from the wounds.

Since his release he returned to his home in Brooklyn, New York.

The President Judge, the Honorable W. Alfred Valentine, wrote the Board as follows: "I have gone over the record and make no objection to the granting of clemency." Likewise, the district attorney states: "I do not have any objections to the granting of a pardon under the facts I have studied."

The New York State Board of Parole writes us that their investigation discloses that since his release in September 1934 the applicant has maintained an unblemished record, appears to have made a very satisfactory adjustment. At present the applicant is employed by the Grace Line as a longshoreman. He is married and has two sons.

The applicant is desirous of taking his civil service ex-

amination to become a Sanitary Health Officer and it is necessary that his record be unblemished. The Board believes that this applicant is deserving of the clemency of the Commonwealth and recommends a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Caesar Ricci, No. A-3460, March Session, 1956. (Recommended May 1956 Session).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Caesar Ricci, convicted of bribery, misdemeanor in office, and conspiracy in the Court of Quarter Sessions of Allegheny County on April 2, 1954, computed from October 10, 1955 be commuted from 1 year to 9 months expiring on July 10, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty-one years of age. He was sentenced for the offense of bribery, misdemeanor in office and conspiracy to pay a fine of $2,000 and to imprisonment in the Allegheny County Prison for from 1 to 2 years.

His offense consisted in accepting a bribe in the amount of One Thousand Dollars from Fred Fiore to influence his vote as a member of the City Council of Clairton to award a contract for coal stripping on city-owned land. The applicant denied his guilt and alleged that the whole matter arose from factional politics. However, the jury believed the sole witenss against him, to wit, the Mayor of the City of Clairton. The applicant appealed his conviction to the Superior Court of Pennsylvania, to wit: 177 Sup. 556, which Court substantiated the judgment of the lower court. Undoubtedly the political disputes in Clairton had a great bearing on this case and was probably the influencing feature in the conviction.

The applicant has conducted himself very well in the County Prison and is employed in the jail bakery. The Board has numerable letters from citizens of Clairton, urging that clemency be extended to the applicant. There is on file a strong letter from the present Mayor of Clairton, the Honorable Kenneth L. Stilley. Likewise, a letter from the General Superintendent of the United States Steel Corporation. Also letters from lawyers, doctors, businessmen, who hold prominent places in the life of the community urging the Board to extend clemency to the applicant. Certainly, a person who held a prominent position in life is severely punished by having been confined for even one day in prison. The Board believes he has been punished, and recommends commutation.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Belton Smith, 8279-C, No. 6968, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Belton Smith, convicted of murder in the second degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on October 1, 1941, ocmputed June 11, 1941 be commuted from 20 years to 15 years, 1 month expiring on July 11, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 11, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Joseph Sweeney, 7233-C, No. 9420, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Joseph Sweeney, convicted of robbery, being armed with offensive weapon, burglary in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on July 1, 1943, computed from June 21, 1943 be commuted from 12 years to 3 years, 1 month expiring on July 21, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 21, 1965.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of

Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Tobin, 7644-D, No. A-212, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William Tobin, convicted of murder in the second degree in the Court of Quarter Sessions of Philadelphia County on April 11, 1946, computed from February 18, 1946 be commuted from 20 years to 10 years, 5 months expiring on July 18, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 18, 1966.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Uhl, 9203, No. 5631, May Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph Uhl, convicted of robbery, carrying concealed and deadly weapon, larceny of auto in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 9, 1936, computed from March 9, 1944 be commuted from 20 years to 12 years, 4 months, 10 days expiring on July 19, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 9, 1964.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Bogdzio, 7354-D, No. A-3649, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Frank Bogdzio, convicted of burglary in the Court of O. & T. Q. S. of Bucks County on Feb. 21, 1946, to be computed from Jan. 25, 1946, be commuted from 15 years to 10 years, 6 months expiring on July 25, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 25, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward Carolan 3995-B, No. A-5, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Edward Carolan, convicted of burglary, receiving stolen goods in the Court of O. & T., Q. S. of Somerset County on January 12, 1949, to be computed from January 11, 1949, be commuted from 10 years to 7 years, 6 months expiring on July 11, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 11, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Shenafon (Xenophon) Chmoures 9772-C, No. 8801, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Shenafon (Xenophon) Chmoures, convicted of being armed to rob, etc. in the Court of O. & T., Q. S. of Philadelphia County on June 18, 1941, to be computed from January 13, 1941 be commuted from 30 years to 15 years, 6 months expiring on July 13, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 13, 1971.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Vincenzo Cosentino, D-5304, No. A-950, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Vincenzo Cosentino, convicted of murder, first degree in the Court of Oyer and Terminer of Luzerne County on July 12, 1940, computed from April 4, 1940 be commuted from life imprisonment to 16 years, 7 months, 10 days, expiring on November 14, 1956.

Our reasons for making this recommendation are as follows:

This applicant is seventy-one years of age. He was sentenced by the Oyer and Terminer Court to life imprisonment for the crime of murder in the first degree.

It appears from the record that the applicant was purchasing a home from the victim. He was unable to keep up the mortgage payments and transferred the property back to the owner who, in turn, gave him a lease on the premises with an option to re-purchase. The owner came to the house one day and was attempting to move a stairway from the property when an altercation between the applicant and the victim arose. The applicant procured his own pistol and shot the victim.

The applicant had no previous criminal record and this was his first offense and his first violation of the law in any way.

The trial judge, the Honorable W. Alfred Valentine, stated to the parole agent that he will not oppose the application but will rely on the Board. The district attorneys' office stated that his office recommends commutation.

The Board very seriously considered this application, involving as it did, the murder of a man but the Board has no reason to believe that this applicant, now well up in years, will again offend against society. He has an excellent record in the penitentiary. He has performed very adequately within the limits of his advanced age and intellectual level. He is the prison barber.

The Board, therefore, recommends commutation.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Melvin Curry, E-858, No. A-2909, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Melvin Curry, convicted of being armed to rob; robbery in the Court of Oyer and Terminer of Philadelphia County on February 2, 1949, computed from January 13, 1949 be commuted from 10 years to 7 years, 10 months, expiring on November 13, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-five years of age. He was sentenced by the Oyer and Terminer Court for from 10 to 20 years for the crime of armed robbery, effective January 13, 1949.

The applicant, with three accomplices, attempted a hold-up on the streets of Philadelphia. The victim happened to be a police officer off duty. As a result, shots were fired and one of the accomplices was wounded. Upon the arrest of the wounded accomplice the other participants, including the applicant, were arrested.

The applicant was later sentenced for another crime of armed robbery for from 12½ to 25 years, to be served consecutively.

The trial judge is no longer on the bench and the President Judge, the Honorable Joseph L. Kun, had no comment to make as to the merits of the application. The district attorney stated he was not opposed to the granting of commutation of the first offense of 10 to 20 years, provided the second sentence of 12½ to 25 years was not disturbed.

The applicant had a minor juvenile criminal record and this offense was in effect his first major crime.

The Board recommends that his first sentence of 10 to 20 years be commuted so that he may enter upon the serving of his second sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Louis A. Cutillo, D-9802, No. A-1366, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Louis A. Cutillo, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on July 31, 1947, computed from July 23, 1947 be commuted from 10 years to 9 years, 4 months, expiring on November 23, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age. He was sentenced by the Oyer and Terminer Court for the crime of robbery for from 10 to 20 years, effective July 22, 1947.

The applicant, together with two accomplices, took the sum of $150.00 from the victim. The group was holding a drinking party in the apartment of the applicant when this offense occurred. Two of the accomplices received lesser sentences, have been released and are now on parole.

The trial judge is deceased and the President Judge, the Honorable Joseph L. Kun, had no comments to make as to the merits of the application. The district attorney also stated that his office was not opposed to the commutation of the sentence.

The applicant has an excellent prison record and has made some attempt of self-improvement during his incarceration. It is understood by the Board that he is assured of employment upon his release and will reside in a good home. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Henning O. Danielson, 454-C, No. 9149, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Henning O. Danielson, convicted of sodomy, in the Court of Oyer and Terminer and Quarter Sessions of Fayette County on October 16, 1946, to be computed from September 27, 1946, be commuted from 10 years to 9 years 10 months, expiring on July 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 27, 1956.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Raymond Robert Dickson, No. A-3722, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Raymond Robert Dickson, convicted of receiving stolen goods and larceny in the Court of Quarter Sessions of Allegheny County, on July 13, 1939 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age. He was placed on probation for a period of two years, effective July 13, 1939.

This applicant had no prior criminal record and since 1939 has conducted himself in a very satisfactory manner. Indeed, the circumstances of the offense would appear that the applicant in receiving stolen goods from a friend was without knowledge of the fact that it had been stolen, and was holding the merchandise as a favor for the friend.

The Chief Probation Officer of Allegheny County states that the applicant's conduct while on probation was satisfactory and that he has paid all the court costs.

It is to be noted that the applicant was only seventeen years of age at the time of the offense.

The sentencing judge, the Honorable William H. McNaugher, stated that he had no objection to the granting of the pardon. Likewise, the district attorney stated that he had no objection to the granting of a pardon.

Since his release the applicant has been employed by the Monongahela Railroad Company. He resides with his wife and three daughters in his own home in Pittsburgh. He is desirous of obtaining a better position with the railroad and feels that his minor criminal offense of seventeen years ago interferes with his progress. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Mathew J. Fekete, 4756-A, No. A-255, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Mathew J. Fekete, convicted of assault and battery with intent to rob, in the Court of Oyer and Terminer and Quarter Sessions of Fayette County on April 1, 1948, to be computed from March 5, 1948, be commuted from 10 years to 8 years, 4 months, 10 days, expiring on July 15, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 3, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George Felice, C-3367, No. A-3098, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of George Felice, convicted of robbery in the Court of Quarter Sessions of Westmoreland Cunty on February 26, 1954, computed from January 30, 1954, be commuted from 3 years to 2 years 10 months, expiring on November 30, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age. He was sentenced for the crime of robbery for from three to six years, effective January 30, 1954.

The applicant robbed the Acme Super Market and was subsequently arrested, admitting his guilt. No dangerous weapon was used, although he did have a toy pistol, the vicitm probably believing it to be a genuine weapon.

The trial judge, the Honorable Edward G. Bauer, stated that: "I have no objection to any action the Board may wish to take in the application of the above named petitioner." Likewise, the district attorney states that any action that this Board cares to take in this case will be satisfactory to his office.

The applicant is essentially a first offender and has made a good institutional adjustment. He has taken advantage of the institution's educational advantages and has earned a high school diploma. He is now used by the institution as a teacher of their classes.

The Board believes that this young man has learned a salutary lesson and if released he will not violate the law and will become a good member of society. He is fortunate in having one of his brother's give him employment. His brother is a contractor in Westmoreland County.

The Board, therefore, recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ernest Ford, 9914, No. A-3698, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Ernest Ford, convicted of armed robbery, robbery with an accomplice and burglary, in the Court of O. & T. Q. S., of Fayette County on September 5, 1940, to be computed from July 27, 1940, be commuted from 20 years to 16 years expiring on July 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 27, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Daniel Francis, 1013-D, No. A-3703 (Also 7398), June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the sentences of imprisonment imposed on Daniel Francis, convicted of robbery, being armed with an offensive weapon, in the Oyer and Terminer Court of Philadelphia County on October 15, 1929 (effective Jan. 15, 1940); and of murder in the second degree, in the Oyer and Terminer and Quarter Sessions Court of Philadelphia County on June 30, 1948 (effective April 21, 1949), be commuted on Bill No. 111 October Sessions, 1929, from a maximum of 20 years to a new maximum of 16 years, 6 months, expiring on July 15, 1956; and on Bill No. 710 May Sessions 1938 from a maximum of 20 years to a new maximum of 7 years, 3 months, expiring on July 21, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis ot his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after receiving his record. But for this action the applicant, because of his sentence, would remain on parole until April 21, 1969.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Giamoni, 7897-D, No. A-262, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William Giamoni, convicted of murder, second degree in the Court of Oyer and Terminer and Quarter Sessions of Northampton County on December 9, 1940, to be computed from October 22, 1940 be commuted from 20 years to 15 years, 9 months, expiring on July 22, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 22, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Lawrence L. Gruber, D-9738, No. A-3652, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Lawrence L. Gruber, convicted of robbery and burglary in the Court of Oyer and Terminer and Quarter Sessions of Dauphin County on June 30, 1947, computed from June 7, 1947 be commuted from 10 years

to 9 years, 5 months, 10 days, expiring on November 7, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age. He was sentenced for the offenses of robbery and burglary and sentenced for from 1 to 10 years, effective June 7, 1947.

The offense consisted of entering a private home and holding up the occupants at the point of a revolver taking their money. This was the applicant's first offense.

The applicant was released at the expiration of his minimum sentence and his maximum expires in June 1957. The applicant is requesting that his maximum sentence be commuted for the reason that he desires release from parole supervision so he may take a better job at a higher salary.

The applicant is presently residing with his wife and five children in the home which he is purchasing in Harrisburg, Penna. The Board of Parole states that he has complied with the rules of the Board and they have no objection to the commutation of the maximum sentence to release the parolee from further supervision.

The sentencing judge, the Honorable Robert E. Woodside, recommends the commutation, believing that the applicant has developed into a reliable citizen. The district attorney of Dauphin County has no objection.

The Board, therefore, has no hesitancy in recommending commutation of the maximum sentence for this applicant, who has demonstrated his rehabilitation over the past nine years.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Wade Hay, 3084-C, No. 5264, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentences of Wade Hay, convicted of robbery, breaking and entering, larceny of automobile, breaking and entering with intent to commit felony, in the Quarter Sessions and Oyer and Terminer Courts of Westmoreland County, on February 8, 1933, be commuted from a maximum term of imprisonment on Bill No. 149 (Bills Nos. 151, 1953, 154, 150 concurrent) (both minimum and maximum expired on Bill No. 152) be commuted from 20 years to a new maximum of 3 years, 5 months, expiring on July 8, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 8, 1963.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recomends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Morris Hayes, 7868-D, No. 9402, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Morris Hayes, convicted of larceny, armed robbery in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on March 26, 1946, to be computed from February 20, 1946 be commuted from 12 years to 10 years, 5 months, expiring on July 20, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 20, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recomends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Karrell Alexander Heyman, 2344-C, No. 8906, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Karrell Alexander Heyman, convicted of murder, second degree in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on February 5,

1942, to be computed from October 31, 1941 be commuted from 20 years to 14 years, 9 months, expiring on July 31, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 31, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recomends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Vernon Richard Johnson, D-8811, No. A-3082, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Vernon Richard Johnson, convicted of robbery, etc., in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on March 25, 1946, computed from February 7, 1946 be commuted from 50 years to 10 years, 9 months, 10 days, expiring on November 17, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age. He was sentenced for the crimes of burglary and robbery by the Oyer and Terminer Court for from 50 to 100 years, effective February 7, 1946, and later sentenced for from 1 to 2 years for conspiracy to break prison and escape by the Quarter Sessions Court of Philadelphia County on July 12, 1951, which sentence is to follow the Delaware County sentence.

The applicant plead guilty to a number of robberies and burglaries in Delaware County, together with two accomplices. The accomplices received similar sentences and both have been released on commutation of their sentences. This young man is still confined.

The sentencing judge of Delaware County is deceased and the President Judge, the Honorable Henry G. Sweeney, states: "If the authorities at the Eastern State Penitentiary are satisfied to have this man released I would also be satisfied." Likewise, the district attorney of Delaware County advised the Board that he has no objection to a release of this applicant.

The record indicates that this applicant is a first offender and received a rather severe sentence. During his incarceration he has a good conduct record, and there is every reason to believe he has learned his lesson.

The Board recommends that his Delaware County sentence be commuted so that he may begin to serve his Philadelphia County sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Henry Katarzynski, D-4812, No. A-2235, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Henry Katarzynski, convicted of murder in the first degree in the Court of Oyer and Terminer of Berks County on March 26, 1940 be commuted from life imprisonment to 16 years, 8 months, expiring on November 26, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age. He was sentenced to life imprisonment, effective March 26, 1940.

This applicant, together with four accomplices entered a gasoline station and held up the attendant, demanding his money. The attendant refused and was fatally shot. The entire group of five persons were subsequently arrested and sentenced. Three of the group received sentences of life inmprisonment, and the other two members were sentenced to short terms and were subsequently paroled at the expiration of their minimums.

It is to be noted that one of the accomplices was Marion S. Kapelski, whose sentence of life imprisonment was commuted by the Board in 1955. This Kapelski made a distinguished record in the Eastern State Penitentiary as a self-trained atomic technician.

The applicant here has earned an outstanding institutional record which includes no disciplinary infractions of the rules. He holds a position of responsibility and trust as a clerk in the Deputy Warden's Office. He is mature and stable. He has been quite an efficient clerk and bookkeeper thru self-training and study.

The sentencing judge, the Honorable Paul N. Schaeffer, is no longer on the bench but appeared before the Board and made a plea on behalf of this applicant, emphasizing the rehabilitation that has taken place in this man's life. The President Judge, the Honorable H. Robert Mays, advised the Board through the Parole Agent, he will not formally oppose the application. The district attorney states that he has no recommendation and leaves it to the discretion of the Board.

The Board recommends that this sentence be commuted, believing that although a life was taken in the commission of this crime, the offender has demonstrated by his ability, maturity and stability that he is ready to take his place in society and become a law-abiding citizen.

The Board notes that the punishment which he endured has not embittered him but he has used this grievous mistake as a stepping stone to improvement. The Board, therefore, recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.

(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Blaine McLaughlin, 4756-D, No. 5654, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of of the Board of Pardons recommend that the maximum sentence of Blaine McLaughlin, convicted of armed robbery, being armed with offensive weapon, in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on October 2, 1939, to be computed from July 27, 1939, be commuted from 50 years to 17 years, expiring on July 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 27, 1989.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Paul Mathews, 5378-D, No. 8775, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Paul Mathews, convicted of robbery, bring stolen property into Commonwealth, Conspiracy, in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on March 20, 1945 to be computed from December 23, 1944, be commuted from 15 years to 11 years, 7 months, expiring on July 23, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 23, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Miller, 7944-A, No. 7840, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Frank Miller, convicted of robbery while armed in the Court of O. T. Q. S. of Washington County on February 23, 1943, to be computed from October 29, 1942 be commuted from 20 years to 13 years, 9 months expiring on July 29, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 29, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Muni 4960-D, No. 8993, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Muni, convicted of burglary, receiving stolen goods in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on February 13, 1945, to be computed from February 13, 1945 be commuted from 20 years to 11 years, 5 months expiring on July 13, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 13, 1965.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Wesley Pauling 2857-C, No. 8982, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Wesley Pauling, convicted of murder, second degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 27, 1940, to be computed from October 25, 1939 be commuted from 20 years to 16 years, 9 months, expiring on July 25, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 25, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Anthony Perpiglia, D-9870, No. A-2707, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Anthony Perpiglia, convicted of burglary, etc. in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 4, 1947, computed from July 17, 1947 be commuted from 50 years to 9 years, 4 months, expiring on November 17, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-nine years of age. He was sentenced for the crime of burglary, robbery, aggravated assault and battery for from 50 to 100 years, effective July 17, 1947.

The applicant, at the age of seventeen, became involved with a group of young men and committed a series of robberies and burglaries in the City. Some of his accomplices, who received lesser sentences, had their sentences commuted over the years so that the applicant is one of the last of this group of fifteen, who were involved in these offenses. He received a more severe sentence than the others.

The trial judge is deceased and the President Judge, the Honorable Joseph L. Kun, stated that he had no information upon which to express his opinion as to the merits of the application. The district attorney stated he was not opposed to the granting of commutation.

During the past years in which the applicant has been incarcerated he has a good prison record. He also had a satisfactory work record and has some skill as a wood carver. He has also acquired the habit of thrift and has saved nearly $1500.00 during his period of incarceration.

The Board, believing that this applicant has been sufficiently punished, and feeling that he will not again offend against society, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Armedio Petolicchio, No. A-3701, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Armedio Petolicchio, convicted of armed robbery, in the Court of Quar-

ter Sessions of Philadelphia County, on November 16, 1934 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He was placed on a ten year probation for the crime of armed robbery by the Quarter Sessions Court of Philadelphia on November 16, 1934.

His crime consisted of entering a meat plant in Philadelphia, together with two accomplices. One of the accomplices carried a gun and they held up the night watchman of the plant and took about Twenty Dollars.

This applicant had no previous record. The probation period of the applicant expired in 1944 and during the period of probation, and following, the aplicant has conducted himself in a law-abiding manner.

The applicant has been employed by the City of Philadelphia in the Department of Weights and Measures for the past four years. The applicant is married and lives with his wife and daughter in his own home.

The trial judge is deceased and the President Judge, the Honorable Joseph L. Kun, advised the Board that he had no information upon which to express an opinion. The district attorney stated that his office was not opposed to the granting of this application.

The Board believes that this applicant, who has demonstrated his reliability as a worthwhile citizen for the past twenty or more years and has been law-abiding in every way, is deserving of a pardon. In the last few years the applicant has suffered from a heart condition aggravated somewhata by the memory of this offense of twenty-two years ago. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Joseph Petrolo, B-7452, No. A-1587, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Petrolo, convicted of murder, first degree, in the Court of Oyer and Terminer of Fayette County on Oyer and Terminer be commuted from life imprisonment to 15 years, 11 months, 10 days, expiring on November 22, 1956.

Our reasons for making this recommendation are as follows:

This applicant is sixty-five years of age. He was sentenced by the Oyer and Terminer Court of Fayette County to life imprisonment for murder in the first degree. The crime consisted of his shooting his friend, following a drinking bout. It appeared that the applicant was living with a woman in a common-law relationship and he learned that she was intimate with his friend. This information caused him to fly into a jealous rage and being under the influence of alcohol, he went to the bedroom of his friend and fired three shots into his friend's body causing immediate death.

During incarceration, the applicant has conducted himself in a very satisfactory manner. He has learned the shoe repair trade and is an excellent worker. When he was admitted to the institution he was illiteriate but he has now educated himself to the sixth grade level. The report from the institution states that he evidences no basic criminal or anti-social inclinations.

The trial judge, the Honorable S. John Morrow, states: "His application indicates that for the fifteen years and upwards of his imprisonment his conduct has been very good. Assuming that to be true and likewise as concerns his other representations it would seem that his application merits perhaps more favorable consideration than very many of them do." The district attorney stated to the Parole Agent that his office is not opposed to the granting of clemency.

The applicant had no prior criminal record and from all reports before the Board the applicant has improved his mental ability, learned a trade and has become stable and mature.

The Board believes that if this applicant is released after eighteen years spent in the penitentiary he will not offend the laws of society. The Board further believes that he has been sufficiently rehabilitated and that he has equipped himself to earn his own living, if released, and there is very little chance that he will revert to a life of crime. Therefore, the Board recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT—Dissents
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Phrommer, D-4863, No. A-2816, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of John Phrommer, convicted of burglary and larceny, in the Court of Quarter Sessions of Philadelphia County on September 12, 1947, be commuted from 15 years to 9 years, 2 months, expiring on November 22, 1956.

Our reasons for making this recommendation are as follows:

This applicant is fifty-seven years of age. He was sentenced for the crimes of burglary, robbery and larceny for from 15 to 30 years, effective September 12, 1947.

This applicant was a member of a group that held up and robbed business places and apartments.

The trial judge is deceased and the President Judge, the Honorable Joseph L. Kun, has no information on which to base his opinion. The office of the district attorney states that they were not opposed to the granting of clemency in this matter.

The applicant holds a responsible position in the carpenter shop of the Philadelphia County Prison and performs his duties with outstanding ability and has a very good conduct record.

The Board believes that this applicant, who has conducted himself so well in prison, and who has, in addition to his duties as a carpenter, learned the trade of watch repairing, has fitted himself to take his place in society. Many of his accomplices have been commuted by the Board and others have been paroled, at expiration of their minimum sentences.

It is to be noted that this applicant assisted the police very materially in rounding up this group and without his assistance the Commonwealth would have been under great difficulty in gaining a conviction. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN—Dissents
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry Ramsey, 630-D, No. 8705, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harry Ramsay, convicted of aggravated assault & battery, assault to raivsh, solicitation to commit sodomy, in the Court of Oyer and Terminer and Quarter Sessions of Greene County on March 4, 1944 to be computed from Feb. 27, 1944, be commuted from 13 years to 12 years, 5 months, expiring on July 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 27, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Enio Regna, D-3577, No. 7076, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Enio Regna, convicted of murder, second degree, in the Court of Oyer and Terminer and Quarter Sessions of Luzerne County on November 7, 1938, to be computed from April 28, 1938, be commuted from 20 years to 18 years, 3 months, expiring on July 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 28, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER.
Governor.

BOARD OF PARDONS

In re application of Joseph Senauskas, B-6513, No. 3615, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph Senauskas, convicted of murder in the first degree, in the Court of Oyer and Terminer of Warren County on June 23, 1936, computed from December 23, 1938, be commuted from life imprisonment to 17 years, 11 months, expiring on November 23, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He was convicted by the Court of Oyer and Terminer of murder in the first degree and sentenced to death by electrocution. This sentence was commuted by the Board of Pardons on the twenty-third day of December, 1938 to life imprisonment. The applicant was confined to prison since 1936 and has been incarcerated for twenty years.

His crime consisted in killing the husband of a woman who was having an affair with one John Polens. Polens employed this applicant, who was then only eighteen years of age, to shoot the husband of his paramour. This act was accomplished and subsequently all parties were arrested and tried and sentenced. The woman received a sentence of 1½ to 3 years in Muncy; Polens was sentenced to death, which sentence was commuted to life in December 1938, and subsequently paroled by a commutation of his sentence in 1952.

Prior to this crime the applicant was arrested, but never convicted, of two offenses. This was his first major offense. During the years of his incarceration the institution reports he has made a consistently excellent prison record. His penitentiary confinement has completely changed him for the better and he has demonstrated his ability to assume responsibility and positions of trust. The prison staff thoroughly recommends his release.

The district attorney of Warren County expresses his opposition, likewise the President Judge, the Honorable

Alexander C. Flick, Jr., stated he does not approve of clemency.

The Board, however, is of the opinion that this applicant, who started out in a life of crime, has, over these past twenty years, demonstrated such a change of personality and character that he is fit for society.

The accomplice and the instigator of this whole tragedy have been released these many years. This applicant, then a young man, has borne the brunt of the punishment which all should have received.

The Board gave very serious consideration to this recommendation realizing that this man should receive punishment for his offense, but feeling that the punishment which he has sueffred also carries with it the efforts of the authorities to restore a life to society that will be productive and responsible. The Board believes that the punishment has been deserved, but, this man has risen above it and has demonstrated qualities that fit him for a place in society. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re aplication of Thaddeus John Skalski, E-1659, No. A-1160, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Thaddeus John Skalski, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 4, 1950, be commuted from 10 years to 6 years, 6 months, 10 days, expiring on November 14, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-six years of age. He was sentenced by the Oyer and Terminer Court of Philadelphia County for the offense of robbery for from 2½ to 10 years, effective May 4, 1950. The applicant was released on parole at the expiration of his minimum sentence.

The applicant is now the owner of a large carrier truck and drives between Philadelphia and Michigan and Ohio. Information was given to the Board that he is planning to extend his business operations. The Board was informed that supervision of the Parole Board causes inconvenience to his business activities when he is compelled to leave the State on short notice. The Board of Parole has informed the Board of Pardons that they have no objection to the commutation of maximum sentence in order to relieve the parolee from further supervision.

The applicant, together with his accomplices, had held up and robbed several business places. There was no prior record for this applicant and this appears to be his first major offense.

The trial judge, the Honorable Gerald F. Flood, stated that he was not opposed to the commutation of maximum sentence. Likewise, the district attorney's office stated they had no opposition to the commutation of maximum sentence.

The Board, therefore, recommends that the maximum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter Smith, 8272-A, No. A-3663, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Walter Smith, convicted of burglary, in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on May 23, 1940, to be computed from April 10, 1940, be commuted from 20 years to 16 years, 3 months, expiring on July 10, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 10, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William L. Stokes, Jr., 77376, No. A-3461, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William L. Stokes, Jr., convicted of burglary, in the Court of Oyer and Terminer of Allegheny County on August 11, 1955, computed from July 22, 1955, be commuted from 18 months to 16 months, expiring on November 22, 1956, provided he is admitted to a veterans hospital for the mentally ill.

Our reasons for making this recommendation are as follows:

This applicant is twenty-nine years of age. He was sentenced for the crime of burglary by the Oyer and Terminer Court of Allegheny County for from 18 to 36 months, effective July 22, 1955.

The applicant, together with accomplice, broke into the New Era Club and stole a quantity of merchandise and took cash.

Since his incarceration the applicant has been under treatment for a mental condition brought on from the disability he received while in the service of the United States Army.

The trial judge, the Honorable John T. Duff, Jr., states: "I am of the opinion petitioner is mentally ill and that he should receive favorable action to the end that he may enter the said hospital for proper treatment." The district attorney of Allegheny County stated to the Board that he had no opposition to the granting of communtation provided he is admitted to a veterans' hospital for the mentally ill. The Board has been informed that the family of the applicant is much in favor of his admittance to a veterans hospital for the mentally ill and that they will cooperate with the authorities in the admittance of this applicant.

Representations have been made to the Board as to the mental condition of this applicant, and the Board, therefore, recommends that his sentence be commuted, provided he is admitted to a veterans hospital for the mentally ill.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Donald M. Stoner, E-1733, No. A-1869, June Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Donald M. Stoner, convicted of burglary and larceny, in the Court of Oyer and Terminer of Lancaster County on June 13, 1950, be commuted from 7½ years to 6 years 5 months, expiring on November 13, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-seven years of age. He was sentenced by the Oyer and Terminer Court of Lancaster County for from 7½ to 15 years for the crime of burglary and larceny, on June 13, 1950.

The offense consisted of entering several business places in Lancaster County and stealing money and merchandise.

The trial judge, the Honorable Joseph B. Wissler, stated that he is opposed to the applicant's release. Likewise, the district attorney of Lancaster County expressed his opposition. However, it was pointed out to the Board that this applicant, since his incarceration, has developed into a Laboratory Technician and is so serving in the penitentiary infirmary. His record while confined has been exceptional and he is qualified, upon his release, to accept a job as an X-Ray Technician.

The Board has on file a letter from the Lancaster Osteopathic Hospital stating that upon his release he will be given employment as a Technician in the X-Ray Department of the hospital.

This young man, who entered the penitentiary without a trade, has developed himself to such a degree that upon the recommendation of the Penitentiary physician, he was offered a place on the staff of a well-known Hospital. The Board, therefore, has no hesitancy in recommending the commutation of a man who has demonstrated his rehabilitation during the past six years of his incarceration.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Yablonski, No. 5638, April Session, 1956. (Recommended June 1956 Session.)

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Joseph Yablonski, convicted of felonious breaking and entry and larceny in the Court of Quarter Sessions of Washington County, on February 2, 1931 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age. He plead guilty to the offense of felonious breaking and entry and larceny, and was sentenced by the Court in February 1931 to pay the costs and undergo imprisonment for from 2 to 4 years in the Allegheny County Workhouse.

The applicant was released at the end of his minimum term and since January 1933 he has conducted himself in a law-abiding manner. Undoubtedly, the applicant was a victim of the depression days and being an unemployed youth he drifted into this type of criminal offense.

Most fortunately the applicant changed his mode of living and rose in the trade in which he was engaged, to wit: coal mining, to become an Executive Board Member of the United Mine Workers of America, District No. 5. There is no question but that this applicant has become a force in his community, having been President of the California Board of Trade, Chairman of the Labors Celebration of the 150th Celebration of the Bill of Rights, member of the Board of National Youth Administration at California State Teacher's College, and a member of other community groups. This applicant is married and the father of three children.

The President Judge, the Honorable Roy I. Carson, states that he has no objection to the granting of pardon as the applicant "should be entitled to the benefit of having his ancient offense obliterated from his civil record." Likewise, the Honorable George T. Cummins, and the Honorable David H. Weiner, Judges of the Common Pleas Court of Washington County, state that they are unanimously in favor of a pardon. The District Attorney states that he was not opposed as the applicant is a well-known and respected citizen of this community. The Board recommends a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.

(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph W. Zarowski, No. A-2885, June Session, 1956.

To is Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Joseph W. Zarowski, convicted of burglary and receiving stolen goods in the Court of Oyer and Terminer of Philadelphia County, on February 2, 1940 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-three years old. He was sentenced for the crime of burglary and receiving stolen goods for from five days to five years, effective February 2, 1940.

The applicant, with two accomplices, entered the apartment of the victim and stole money and personal property. The applicant served just one day of his five day minimum and was released. Likewise, his accomplices were released.

This was the applicant's first offense and following his release he was under probation for a short time. The Philadelphia authorities report that he was a satisfactory probationer.

Following his release the applicant entered the armed services and was honorably discharged in 1945. Since his release he has been employed by the Board of Revision and Taxes for the County of Philadelphia as a deputy real estate assessor. The supervisor of the office reports that the applicant is a very excellent worker, reliable and trustworthy.

For the past fifteen years the applicant has conducted himself as a law-abiding citizen and holds a position that is a responsible one.

The Board recommends that a pardon be granted this applicant believing that he has demonstrated, without question, his rehabilitation and that he will continue to be a respected and law-abiding citizen of the Commonwealth.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Adam Billings, No. A-3752, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania.

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Adam Billings, convicted of Larceny, R.S.G., Conspiracy and Burglary, Possession Burglar Tools, in the Court of Quarter Sessions of Philadelphia County, August 18, 1921, and on May 17, 1928, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is 56 years of age. He plead guilty to the crime of larceny of a motor vehicle, conspiracy and rsg in Philadelphia County in August, 1921, and in May, 1928. He received a sentence of from 1½ to 2 years on May 1928. Both sentences were served in the Eastern State Penitentiary. The applicant was released at the expiration of his minimum sentence in May 1933 and his maximum sentence expired in May 1938. Since his release this applicant has for the past 17 years conducted himself as a law-abiding citizen. He is now employed by an automobile agency as a mechanic. He owns his own home wherein he resides with his wife and 3 children. The applicant enjoys a very fine reputation among his co-workers and has the reputation of being a good family man and a reliable person.

The Board was informed by the District Attorney's office there was no opposition to the granting of clemency. The sentencing judge is deceased and the present judge made no comment as to the merits of the application. The Board is informed that deportation proceedings have been instituted because of the felony committed in his youth. This applicant, who has conducted himself so admirably for the last 17 years, has proved himself to be a responsible citizen and the Board believes that a pardon should be granted in order to avoid deportation. The Board, therefore, so recommends.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Billman, D-5086, No. A-3713, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Charles Bilman, convicted of murder in the first degree in the Court of Oyer and Terminer of Northumberland County on May 3, 1939 be commuted from life imprisonment to 18 years, expiring on May 3, 1957.

Our reasons for making this recommendation are as follows:

This applicant is fifty-six years of age. He was found guilty of murder in the first degree and was sentenced to the Eastern State Penitentiary for life.

The applicant alleges that he was keeping company with the victim, a widow, whom he was supplying with money from time to time. Frequent arguments arose between them over the amount of money he was giving her and finally ended in a violent argument wherein he pulled a revolver from his shirt and shot the victim. At the same time he attempted suicide

The trial judge is deceased and the President Judge, the Honorable Robert M. Fortney, states that since he was the prosecuting attorney at the time of the trial he is familiar with the circumstances of the case and he is of the belief that the applicant has paid his debt to society and should be released. The present district attorney states to the Parole investigator that he had no objection to the granting of commutation.

The prison staff states that over a long period of time

the applicant has earned an excellent institutional record. He is temporarily confined in the Tuberculosis Ward, and the staff's opinion is that this is a meritorious case.

The Board, in reviewing his record, noted that he had one prior arrest for a motor violation back in 1932 and every indication would point to the fact that he is not a hardened criminal. The Board is of the opinion that if released he will not resort to any criminal activities, and the board, therefore recommends his sentence be commuted when he has served eighteen years.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor

BOARD OF PARDONS

In re application of James Blackwell, 5354-D, No. 945, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Blackwell, convicted of murder in the first degree in the Court of Oyer and Terminer of Fayette County on September 17, 1926 be commuted from life to 30 years, 10 days, expiring on September 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter Burke, 2933-D, No. 4472, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Walter Burke, convicted of armed to rob in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on December 31, 1937, computed from December 22, 1937 be commuted from 20 years to 18 years, 9 months, 6 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 22, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Clyde C. Burtch, 6118-D, No. 8056, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Clyde C. Burtch, convicted of murder, second degree in the Court of Oyer and Terminer of Allegheny County on February 20, 1942, computed from September 11, 1941 be commuted from 20 years to 15 years, 17 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain or parole until September 11, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Orlando Caroluzzi, 6341-C, No. A-281, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Orlando Caroluzzi, convicted of burglary in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on May 14, 1943, computed from May 10, 1943 be commuted from 20 years to 13 years, 4 months, 18 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain or parole until May 10, 1963.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Milton Claybaugh, 4073, No. A-316, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Milton Claybaugh, convicted of burglary in the Court of Oyer and Terminer of Juniata on February 3, 1948, computed from January 25, 1948 be commuted from 10 years to 8 years, 8 months, 3 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Pardons has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January, 25, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Francis J. Clayton, Sr., No. A-3766, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Francis J. Clayton, Sr., convicted of Assault and playfully and wantonly pointing a firearm in the Court of Quarter Sessions of Philadelphia County, on January 25, 1922 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is 56 years of age. He was found guilty of assault and wantonly pointing a firearm in 1921, and received a suspended sentence.

In 1926 the applicant was arrested but found not guilty. Since 1926 the applicant has been involved in no criminal offenses whatsoever. The circumstances of the assault and battery charge arose from his employment as a private detective in the apprehension of thieves in a factory.

The applicant has, since his youth, been engaged in various forms of police work and at present is a deputy constable in the 15th Ward of the City of Philadelphia.

The sentencing Judge is deceased and his successor, the Honorable Herbert A. Mook, stated that he had no comment to make as he was unfamiliar with the facts. The District Attorney's office of Philadelphia County stated that there was no opposition to the granting of clemency.

The applicant is married and has one child. The investigator for the Board of Parole reports that the applicant's reputation is excellent among the friends and associates. The Board, believing that this applicant will not again offend against society and feeling that the applicant is worthy of a pardon, so recommends.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Andrew Crane, 6105-A, No. 9355, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Andrew Crane, convicted of robbery, being armed with an offensive weapon in the Court of Oyer and Terminer and Quarter Sessions of Bucks County on Oyer and Terminer and Quarter Sessions be commuted from Bucks to May 5, 1942, computed from April 11, 1942 expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 11, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER.
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of David Darcy, No. A-306, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the death sentence of David Darcy, who was convicted of murder in the first degree, in the Court of Oyer and Terminer and General Jail Delivery of Bucks County on February 16, 1949, be commuted from death to life imprisonment.

Our reasons for making this recommendation are as follows:

Although opinion is divided among the members of the Board of Pardons as to whether or not David Darcy received a fair trial and as to whether or not the sentence imposed by the jury was within the law and proper, the Board is of the opinion that under the circumstances of this case executive clemency is required.

The Constitution of the United States and the Constitution of Pennsylvania guarantee that every accused person shall have a speedy and fair trial. Under the American system of constitutional and common law, conviction even of an admittedly guilty person is invalid unless that person has received the full measure of protection accorded by the Constitution.

Included in the guarantee of a fair trial is not only the right of appeal but the right to representation by competent and diligent counsel. So important are these rights that in Pennsylvania counsel is even appointed by the Court to represent the indigent accused.

Darcy's counsel has attempted to protect his client's rights with all diligence and fidelity, which is the sworn duty of all lawyers. The extraordinary circumstances which have caused such a lengthy delay and multiplicity of appeals should not, and cannot, militate against the right of Darcy or any accused person to receive that full measure of consideration which the Constitution affords him. The numerous appeals and petitions filed on behalf of Darcy indicate that counsel was convinced that a legitimate and substantial question of constitutional right was involved.

Furthermore, many of the judges who heard the various appeals were similarly convinced. Darcy's counsel in petitioning for a new trial raised a number of questions going into the fairness of the trial, the conduct of the Judge and the atmosphere of hysteria and prejudice surrounding the court room. Twenty-three Judges of the highest courts of this country (seven Justices of the Supreme Court of Pennsylvania, seven Judges of the United States Court of Appeals for the Third Circuit and nine Justices of the Supreme Court of the United States), have examined the record of the Darcy trial. Eight of these Judges found that the petitioner had raised substantial and meritorious questions of deprivation of consitutional rights. Seven of these Judges held that not only had Darcy raised such questions but that he had in fact been denied his constitutional right to a fair and impartial trial, and that the verdict and sentence of death are violative of the Constitution of the United States.

It cannot, therefore, be said that the numerous appeals and petitions in this case, which have consumed eight years, were frivolous or without merit.

Darcy has, throughout the eight years during which he has been imprisoned under sentence of death, sought in vain a new trial. The Board of Pardons cannot grant a new trial, and is limited in its powers to making recommendations to the Governor. Since so substantial a doubt as to the fairness of the trial exists, however, and since the certainty that justice has been done should prevail, especially when the life of a human being is at issue, this Board cannot with clear conscience fail to recommend the exercise of executive clemency. With such a sharp and substantial division of judicial opinion upon basic constitutional rights, no other course to us seems proper.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Fred Davis, 7017-D, No. 8308, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Fred Davis, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 2, 1938, computed from February 24, 1938 be commuted from 60 years to 18 years, 7 months, 4 days expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 24, 1998.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George Dent, Jr., 5511-D, No. 8011, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of George Dent, Jr., convicted of assault and battery; aggravated assault and battery, etc., in the Court of Oyer and Terminer of Blair County on June 10, 1941, computed from May 27, 1941 be commuted from 20 years to 15 years, 4 months expiring on September 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until May 27, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Lewis W. Else, 73-C, No. 9386, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Lewis W. Else, convicted of robbery, awow in the Court of Oyer and Terminer and Quarter Sessions of Northampton County on September 4, 1946, computed from June 22, 1946 be commuted from 12 years to 10 years, 3 months, 6 days expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 22, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward Favre, 3769-B, No. A-3762, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Edward Favre, convicted of robbery in the Court of Quarter Sessions of Lacakawanna County on November 29, 1948, computed from November 11, 1948 be commuted from 20 years to 7 years, 1 month, 17 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 11, 1968.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Clement T. Flis, No. A-1487, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Clement T. Flis, convicted of burglary in the Court of Oyer and Terminer of Clinton County on February 11, 1952, computed from December 5, 1951 be commuted from 7 years to 5 years, 10 days, expiring on December 15, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-four years of age. He was sentenced for from 1½ to 7 years in the Western State Penitentiary for the offense of burglary.

The applicant states that under the influence of liquor he broke into several business places in and about Lock Haven. The applicant alleges he was not in need of money and could only attribute his offenses to intoxication. The applicant was released on September 5, 1952 when his minimum sentence was commuted by the Governor on July 15, 1952.

While on parole this applicant has conducted himself in a very satisfactory manner and both the parole officers and the Police Department of St. Marys, Pennsylvania, state they have nothing derogatory to report concerning his conduct.

The applicant is a dental technician and is now operating his own dental laboratory and his income is estimated to be over Eight Hundred Dollars a month. He is married and owns his own home.

The trial judge is deceased and the President Judge, the Honorable Abraham H. Lipez, states he sees no objection to the granting of clemency. Likewise, the District Attorney stated that they have no objection to the granting of clemency.

The Board, believing that this applicant has learned his lesson and will not again offend against society, recommends that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harold Holden Foster, No. A-352, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the death sentence of Harold Holden Foster, who was convicted of murder in the first degree, in the Court of Oyer and Terminer and General Jail Delivery of Bucks County on September 6, 1949, be commuted from death to life imprisonment.

Our reasons for making this recommendation are as follows:

In view of the recommendations of the Board of Pardons in the David Darcy application, and which is in part applicable to the Harold Holden Foster trial, and in view of the fact that the Trial Court, in considering the plea of Felix Capone, imposed a life sentence rather than a death sentence, the Board of Pardons recommends that the sentence of Harold Holden Foster be commuted from death to life imprisonment

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Roscoe Frazier, 890-D, No. 7341, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Roscoe Frazier, convicted of murder, second degree in the Court of Oyer and Terminer of Allegheny County on May 23, 1941, computed from July 25, 1940 be commuted from 20 years to 16 years, 2 months, 3 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 25, 1960.

For the reason that this applicant has served a long time on parole, and the further heason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Freeman, 4995-B, No. A-3748, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members

of the Board of Pardons recommend that the maximum sentence of William Freeman, convicted of intent to rob in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 22, 1939, computed from September 12, 1939 be commuted from 20 years to 17 years, 16 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 12, 1959.

For the reason that this applicant has served a long time on parole, and the further heason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Vincent Gaetano, No. A-3732, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Vincent Gaetano, convicted of receiving stolen goods in the Court of Quarter Sessions of Allegheny County, on December 10, 1942 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-six years of age. He plead guilty to the offense of receiving stolen goods and was placed on probation for the period of two years, ordered to pay the costs and make restitution, amounting to one hundred dollars.

The offense consisted of buying a quantity of electrical fixtures from an employee of the Allied Electric Supply Company of Pittsburgh, Pennsylvania, for $25.00, the value of which was over $350.00. Since this offense the applicant has conducted himself in a most satisfactory manner and has not been involved in any criminal activities whatsoever. For the past thirty years he has been a barber and he now operates his own shop in Pittsburgh, employing two barbers.

The applicant, and his wife, own their own home and reside therein as his four children are all married and own their own homes. The Probation Officer of Allegheny County stated that the applicant while on probation reported regularly, paid his fine and costs and made full restitution. The trial judge advised the parole investigator that he saw no reason to oppose clemency. The District Attorney of Allegheny County stated to the Board in open hearing that there was no opposition to the granting of the application.

The Board, believing that this man will not again offend against society, and further believing that he is worthy of a pardon, so recommends.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Louis Simon George, 3692-B, No. A-3776, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Louis Simon George, convicted of larceny and burglary in the Court of Oyer and Terminer of Fayette County on October 25, 1948, computed from May 29, 1948 be commuted from 19 years to 8 years, 4 months expiring on September 29, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until May 29, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Goga, 4714, No. 9844, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Goga, convicted of rape in the Court of Quarter Sessions of Washington County on Quarter Sessions be commuted from 15 years, to 8 years, 7 months, 15 days expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the

applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 13, 1963.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Salvador Gomez, a-k-a Raymond Gomez, No. A-3734, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Salvador Gomez a-k-a Raymond Gomez, convicted of breaking and entering in the Court of Oyer and Terminer and Quarter Sessions of Westmoreland County, on December 24, 1921 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is 54 years of age. He was sentenced for larceny and the breaking and entering into a business place to the Pennsylvania Industrial Reformatory in Huntingdon on the 24th day of December 1921. The applicant was 19 years old at the time of his offense and was unable to speak English. A stranger asked him to enter a tailor shop and take a coat which the stranger said belonged to him. The applicant did so, entering the shop and was arrested. Since this arrest he has not been involved for the past 35 years in any criminal activity. The trial judge is deceased and the President Judge, the Honorable Richard D. Laird, stated to the parole agent that he had no comment to make and would rely upon the decision of the Board. The district attorney stated that any action the Board cared to take upon this applicant would be satisfactory to his office. The applicant is subject to deportation to Mexico and a pardon is necessary in order for him to remain in this country. The applicant has been gainfully employed for the past 33 years. He is married and has 3 children. At present he is employed in a restaurant as a chef, the Pan Bar Luncheonette in New York City. The report from both the Pennsylvania Board of Parole and the New York State Board of Parole indicate that this applicant has conducted himself as a law-abiding citizen since 1921 and the Board believes he has demonstrated his rehabilitation in every way. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter E. Grinnell, 5189-C, No. A-108, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Walter E. Grinnell, convicted of robbery in the Court of Oyer and Terminer of Crawford County on February 23, 1948, computed from December 8, 1947 be commuted from 10 years to 8 years, 9 months, 20 days expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 8, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Haywood, 3519-C, No. A-3804, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Haywood, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on July 22, 1947, computed from July 14, 1947 be commuted from 10 years to 9 years, 2 months, 14 days expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But

for this action the applicant, because of his sentence, would remain on parole until July 14, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Henry, 545-B, No. 7459, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William Henry, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 6, 1938, computed from August 18, 1938 be commuted from 20 years to 18 years, 1 month, 10 days expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until August 18, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry Hlohinec, C-2157, No. A-1437, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Harry Hlohinec, convicted of statutory rape in the Court of Oyer and Terminer of Allegheny County on April 4, 1951, computed from March 29, 1951 be commuted from 7½ years to 5 years, 8 months, 20 days expiring on December 19, 1956.

Our reasons for making this recommendation are as follows:

This applicant is sixty-five years of age. He was convicted for the offense of statuory rape and was sentenced to for from 7½ to 15 years in the Western State Penitentiary.

The applicant denied that he molested and attempted to rape a child about eight years of age. However, after the testimony was heard by the Court, before a jury, the applicant was adjudged guilty. The applicant had no prior record and the investigation disclosed that the community was taken by surprise when the applicant had been arrested for this offense. He had been employed for many years by the Pressed Steel Car Company and bore an excellent reputation.

The trial judge is deceased and the President Judge, the Honorable William H. McNaugher, stated that he had no recommendation to submit to the Board. The District Attorney of Allegheny County stated to the Board that he was opposed to the granting of clemency.

The staff of the Penitentiary states that the applicant has made an excellent adjustment considering his age and physical condition. The applicant has served well over half of his sentence and the Board believes that he has been sufficiently punished due to the fact that this was his first offense and that he has made every effort in the penitentiary to adjust himself. The Board, therefore, recommends commutation of his sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN—Dissents,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved,

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Louis Kacin, 3086-D, No. 9656, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Frank Louis Kacin, convicted of burglary in the Court of Oyer and Terminer of Allegheny County on June 9, 1941, computed from February 28, 1941, be commuted from 20 years to a new maximum of 15 years, 7 months, expiring on September 28, 1956; and that the maximum sentence of Frank Louis Kacin, convicted of burglary, larceny, receiving stolen goods on October 13, 1944, computed from February 28, 1941, in the Court of Quarter Sessions of Westmoreland County be computed from 20 years to a new maximum of 15 years, 7 months expiring on September 28, 1956; and that the maximum sentence of Frank Louis Kacin, convicted of burglary in the Court of Oyer and Terminer of Cambria County on February 19, 1945, computed from February 28, 1941, be commuted from 20 years to 15 years, 7 months expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the

applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 28, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved,

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph J. Karlovich, E-1040, No. A-2471, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Joseph J. Karlovich, convicted of armed robbery; burglary; robbery by violence in the Court of Oyer and Terminer and Quarter Sessions of Northumberland County on April 25, 1949, computed from April 4. 1949 be commuted from 18½ years to 7 years, 8 months, 10 days expiring on December 14, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age, and was sentenced for the crime of armed robbery, burglary, robbery by violence for from 18½ to 37 years in the Eastern State Penitentiary, effective April 4, 1949.

The applicant, and several accomplices, were involved in a holdup of business places in Northumberland and Schuylkill Counties. The offenses were in some instances accompanied by violence. The sentence for the offense committed in Schuylkill County was made to run concurrent with the Northumberland County sentence and has expired.

The trial judge, the Honorable William I. Troutman, stated that he was in favor of granting the applicant's request for clemency as he was of the opinion the applicant has served sufficient time to cause him to repent of his past mistakes and he is now in a position to become a useful member of society. The district attorney stated to the parole agent that he had no objection to the extension of clemency to this applicant.

The prison staff states that the applicant has an excellent work record and has become quite skilled in the carpentry trade. They state he has an outstanding adjustment record in the prison.

The applicant had a minor criminal record consisting of a violation of the motor laws, and there is every belief that this applicant will not offend against the laws of society in the future. The Board, therefore, recommends that this sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved,

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert Kerestes, 5882-C, No. A-3706, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Robert Kerestes, convicted of armed robbery, robbery, receiving stolen goods in the Court of Oyer and Terminer of Beaver County on March 17th, computed from December 1, 1942, be commuted from 20 years to 13 years, 9 months, 27 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 1, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved,

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Henry John Lapinski, No. 7291, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Henry John Lapinski, convicted in the Courts of Oyer and Terminer and Quarter Sessions of Allegheny County on February 2, 1935 of Larceny, on January 30, 1936 of Aggravated Assault and Battery, on January 30, 1936 of Robbery, on July 9, 1941 of Receiving Stolen Goods, on January 15, 1942 of Robbery and Receiving Stolen Goods; and further convicted in the Court of Quarter Sessions of Clearfield County on August 30, 1938 of Larceny, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is thirty-nine years of age. He was sen-

tenced for from five to ten years in the Western State Penitentiary on December 16, 1941, for the crime of robbery and receiving stolen goods. It is to be noted that for other offenses he received generally suspended sentence except a term in the Pennsylvania Industrial School of Huntingdon.

The crime for which he was sentenced arose from the fact that he, together with a female accomplice, were convicted of assaulting and robbing a man on the streets of Pittsburgh. They plead not guilty but were adjudged guilty. The applicant was released from the prison on December 16, 1946, after serving his minimum sentence. His maximum sentence for this offense was commuted on January 19, 1950.

The Board of Parole advises that the applicant has maintained a good work record and that he has not become involved in any criminal offenses since his release. He is presently employed by the Plaza Building, Inc., of Youngstown, Ohio, and is presently working in Pittsburgh for this Company.

The applicant is married and has one child. The applicant is desirous of cleaning his record of the stigma of criminal offenses for the sake of himself and his family. The applicant personally appeared before the Board to plead his case and his appearance and manner made a distinct impression upon us.

Neither the Trial Judge, nor the District Attorney of Clearfield County made any comment to the Board. The Allegheny County Judges are deceased, and the Allegheny County Court made no recommendation. The District Attorney of Allegheny County, however, stated to the Board that he had no objection to the exercise of clemency.

The Board is of the opinion that this man has completely rehabilitated himself and is deserving of the clemency of the Commonwealth. The Board, therefore, recommends a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN—Dissents,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Lewis, 8424-C, No. 6951, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James Lewis, convicted of burglary and receiving stolen goods in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 16, 1942, computed from November 30, 1939 be commuted from 30 years to 16 years, 10 months, expiring on September 30, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 30, 1959.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Long, 6205-C, No. A-3767, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Charles Long, convicted of rape in the Court of Oyer and Terminer of Allegheny County on October 9, 1947, computed from that date be commuted from 10 years to 8 years, 11 months, 20 days, expiring on September 29, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 9, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Edward McGinty, E-1584, No. A-1976, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Edward McGinty, convicted of burglary and larceny in the Court of Oyer and Terminer and Quarter Sessions of Luzerne County on March 17, 1950, computed from March 15, 1950 be commuted from 7½

years to 6 years, 9 months, 5 days, expiring on December 20, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age. He was sentenced for the offenses of burglary and larceny for from 7½ to 15 years in the Eastern State Penitentiary, effective March 17, 1950

The applicant's offense consisted of an accomplice and himself entering a service station and holding up the owner and taking cash and goods to the value of sixty dollars. Likewise, they held up two other establishments several weeks later and robbed these business places of small sums of money. In the last crime the victim was injured by a shot from applicant's gun. The accomplice also received an eye injury. Then when the accomplice went to the hopital for treatment the police were able to apprehend both the applicant and the accomplice.

During his incarceration the staff reports that this applicant has had a good record, both from disciplinary and work basis, and the staff believes that the application is worthy of consideration. The applicant has been employed in the pentitentiary hospital for the past six years and has done an excellent job. The Board has been informed that the detainers which were lodged against him by the City of Wilkes-Barre have been lifted.

The trial judge, the Honorable William A. Valentine, states that any action of the Board relative to this application will meet with his approval The district attorney's office did not make any comments.

The Board is of the opinion that this applicant will not again offend against society and recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Blaine McKee, 780-A, No. 6457, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of of the Board of Pardons recommend that the maximum sentence of William Blaine McKee, convicted of assault and battery; aggravated assault and battery; robbery; larceny of auto; escape; breaking jail in the Court of Oyer and Terminer and Quarter Sessions of Butler County on October 25, 1938. computed from April 21, 1940 be commuted from 45 years to 16 years, 5 months, 7 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 21, 1985.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Daniel G. McNamara, No. A-3721, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Daniel C. McNamara, convicted of statutory rape in the Court of Quarter Sessions of Philadelphia County, on February 10, 1948 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is 28 years of age. He was convicted of the offense of Statutory Rape in February. 1948, and sentenced to pay a fine of $100 and costs. The applicant, together with three accomplices, invited a young lady to take a ride in an automobile in which they were seated. The young lady accompanied them and in the course of the drive the applicant and his accomplices had intercourse with her. The victim was younger than her appearance would lead one to believe. At the hearing it was disclosed that she was only fourteen years of age.

The applicant, since his involvement in this offense, has lead an exemplary life. He is now employed as a machinist for a concern in Philadelphia. The applicant is married and resides with his wife in their own home. The applicant's reputation in the neighborhood where he resides is most excellent and he is desirous of obtaining a pardon so that he may apply to the Philadelphia Police Department for a position as a police officer.

The sentencing Judge, the Honorable Charles Guerin, stated that he was in complete accord with any action taken by the Board. Likewise, the Philadelphia District Attorney stated that he was not opposed to the granting of clemency in this case.

The Board, believing that this applicant will not again offend against society, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Clyde Miles, 3590-D, No. 7728. September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Clyde Miles, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 9, 1940, computed from January 4, 1940 be commuted from 20 years to 16 years, 8 months, 24 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 4, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Donald Aaron Moore, C-3930, No. A-3750, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Donald Aaron Moore, convicted of assault by prisoner in the Court of Quarter Sessions of Centre County on October 27, 1954, computed from November 10, 1955 be commuted from 2 years (less 4 days credit jail time) to 1 year, 1 month, 6 days, expiring on December 16, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty years of age. He was sentenced for the offense of assaulting a prison guard for from 2 to 6 years in the Western State Penitentiary effective November 10, 1955 (less 4 days credit jail time). The applicant was then in the Rockview Penitentiary on a sentence from Bradford County.

The applicant alleges that while serving his sentence at Rockview he received information that his wife was unfaithful and that, in addition, she had obtained all the funds which were on deposit in his name in the bank. This news upset him so that he threatened a prison guard to drive him to Lock Haven, where he believed she and the children were then living. The prison guard was not injured and his only experience was that of having a pocket knife used as a weapon to compel his compliance to the prisoner's orders.

During his stay at the State Penitentiary at Rockview this applicant has conducted himself so well that he has been declared to be an outstanding prisoner as to his work, his cooperation and that the present offense, which he committed during a period of emotional stress, is not consistent with his normal character. He appears to be neither hardened or basically anti-social.

The trial judge, the Honorable Ivan Walker, has stated to the Parole Investigator that he will not oppose this application, and the District Attorney advised the Board that he had no comments to make as to the merits of the request.

The Board is of the opinion that this man, who, from all reports has adjusted himself, will not again offend against society, and recommends that his sentence be commuted when he has served one year.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Theodore Morrow, 160-D, No. 9916, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Theodore Morrow, convicted of murder in the second degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on March 7, 1944, computed from January 19, 1944 be commuted from 14 years to 12 years, 8 months, 10 days, expiring on September 29, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 19, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles H. Nichols, C-2098, No. A-3717, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of

the Board of Pardons recommend that the maximum sentence of Charles H. Nichols, convicted of Incestuous Rape and Fornication in the Court of Quarter Sessions of Potter County on March 12, 1951, computed from February 20, 1951 be commuted from 7½ years to 5 years, 10 months, expiring on December 20, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-seven years of age. He was sentenced for from 7½ to 15 years in the Western State Penitentiary.

This applicant plead guilty to the charge of having incestuous relationship with his sister, aged fourteen. The applicant was then twenty-two years of age. From this relationship a child was born.

The trial judge is deceased and the President Judge. the Honorable Walter P. Wells, states he has no objection to this application being granted. The district attorney's office stated to our parole agent that they were not opposed to the extension of clemency.

The applicant has conducted himself admirably in the institution and he recently earned the highest honor rating granted by the penitentiary in recognition of his over-all adjustment. It is the unanimous opinion of the prison staff that this man is worthy of special consideration.

The applicant had no prior criminal record and the Board is of the opinion that the splendid adjustment he has made will auger well for his adjustment in society. The Board is of the further opinion that he will not again offend against the laws of society. The Board, therefore, recommends the commutation of his minimum sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Ottie, 9101-C, No. 9306, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of William Ottie, convicted of Rape in the Court of Oyer and Terminer of Westmoreland County on September 2, 1943, computed from September 4, 1943 be commuted from 14 years to 13 years, 24 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 4, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Milton A. Parks, 4972-D, No. 8685, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Milton A. Parks, convicted of robbery in the Court of Oyer and Terminer and Quarter Sessions of Dauphin County on February 5, 1945, computed from January 6, 1945 be commuted from 15 years to 11 years, 8 months, 22 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 6, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Walter Rager, 5272-A, No. 7500, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Walter Rager, convicted of burglary in the Court of Oyer and Terminer of Cambria County on June 11, 1942, computed from March 11, 1942 be commuted from 20 years to 14 years, 6 months, 17 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The

Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 11, 1962.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John A. Schulkins, 7087-C, No. 5419, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John A. Schulkins, convicted of murder, in the first degree in the Court of Oyer and Terminer of Allegheny County on May 18, 1931, computed from the same date be commuted from life to 25 years, 4 months, 10 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Joseph Schultz, 3911-D, No. A-3741, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Joseph Schultz, convicted of robbery, etc., in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 12, 1938, computed from April 7, 1938 be commuted from 25 years to 18 years, 5 months, 20 days, expiring on September 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 7, 1963.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN.
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN.
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Shelton C. Sharpe, No. A-3765, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Shelton C. Sharpe, convicted of selling liquor to intoxcated persons in the Court of Quarter Sessions of Philadelphia County, on April 18, 1950, be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is 34 years of age. He was sentenced in April, 1950, for the offense of selling liquor to intoxicated persons and fined $100. He paid the fine and costs. The applicant at the time of his arrest was employed as a bartender. The police raided the establishment and the applicant was arrested.

Since 1949 the applicant has not become involved in any criminal offense. He is at present employed as the manager of the Cylipso Bar and the proprietor states that the applicant is a very good worker and a most reliable indivdual. The applicant resides with his wife in his own home and has conducted himself in a very satisfactory manner.

The trial judge, the Honorable Charles L. Guerin, stated that any action taken by the Board would receive his full approval. Likewise, the District Attorney's office of Philadelphia County advised the Board that there was no opposition to the granting of clemency in this case.

The Board, believing that this applicant will not again offend against the law, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.

(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved.

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ben Kaufman, No. A-3344, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Ben Kaufman, convicted of receiving stolen goods, and conspiracy to do an unlawful act of larceny in the Court of Quarter Sessions of Erie County on February 9, 1956, computed from January 10, 1956 be commuted from 1½ years to 1 year expiring on January 10, 1957.

Our reasons for making this recommendation are as follows:

This applicant is forty years of age. He was sentenced for from 1½ to 3 years for conspiracy and for from 1 to 2 years, concurrently for receiving stolen property to the Western Correctional Diagnostic and Classification Center, and later transferred to the Allegheny County Workhouse.

The applicant was found guilty, with two employes of the Marx Toy Company in the stealing of virgin plastic material from that company. The applicant, in turn, sold this material to a Cleveland concern. The applicant denied these allegations. However, the jury adjudged him guilty. The verdict was appealed to the Superior Court, which Court sustained the lower Court.

The applicant had no previous record and his business reputation in the City of Erie, from all accounts, was excellent. The Board has on file letters from several citizens of Erie attesting to his character and reputation.

The trial judge, the Honorable Elmer L. Evans, is opposed to any consideration of clemency at this time. Likewise, the District Attorney's office indicated their objection to a Parole Board investigator.

The Board, however, believes this applicant has been sufficiently punished. The fact that his fellow conspirators, Orsini and Colonna, received only a sentence for from four months to eight months in the Erie County Prison, and were released after serving two and one-half months, persuades the Board that the applicant should have his sentence commuted. The Board believes that a year of imprisonment is sufficient punishment for a man of his standing in the community and that this experience, which he is undergoing, will prove to be so vivid that he will not offend against the rules of society, and, therefore, so recommends.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER—dissents,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of George Shelton, 5886-C, No. 9188, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of George Shelton, convicted of assault, being armed with offensive weapon to rob in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on December 9, 1941, computed from November 28, 1941 be commuted from 40 years to 14 years, 10 months expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 28, 1981.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER—dissents,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Arthur Siegal, 3755-C, No. 9409, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Arthur Siegal, convicted of burglary in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on August 4, 1947, computed from January 24, 1946 be commuted from 15 years to 10 years, 8 months, 4 days expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 24, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER—dissents,
Secretary of the Commonwealth.

(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward Simko, C-3745, No. A-3715,

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Edward Simko, convicted of rape, assault and battery with intent to ravish, and assault and battery in the Court of Oyer and Terminer of Fayette County on April 1, 1955 be commuted from 2 years to 1 year, 8 months, 17 days, expiring on December 18, 1956.

Our reasons for making this recommendation are as follows:

This applicant is forty-two years of age. He was sentenced for from 2 to 6 years for the offenses of assault and battery, and assault and battery with intent to ravish and rape, in the Western State Penitentiary, in 1955.

The applicant was found guilty of picking up in his automobile a young woman, age twenty-three and on the way to her home he criminally assaulted her. The applicant denied the offense and alleged that assent was given to the intercourse.

The trial judge, the Honorable J. Russell Carr, did not express his opinion as to the merits of the application, nor did the District Attorneys' office reply to our inquiry.

The applicant had two trials, the jury being unable to reach a verdict at the first trial.

The applicant had no previous criminal record and the prison staff reports that he has adjusted himself satisfactorily and has been guilty of no infractions of the rules of the prison. His general rehabilitation is of such a quality that the recommendation of clemency is suggested by the staff.

The Board believed that this man will not be guilty of this nor any other offense against society if released, and, therefore, recommends that his minimum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Whitman Simpson, 7776-D, No. 5824, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Whitman Simpson, convicted of being armed to rob, etc in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 15, 1940, computed from April 4, 1940 be commuted from 40 years to 16 years, 5 months, 24 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 4, 1980.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted.

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of DePaul Smith, 2305-B, No. 9202, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of DePaul Smith, convicted of armed robbery and receiving stolen goods in the Court of Oyer and Terminer of Allegheny County on January 12, 1943, computed from July 6, 1943 be commuted from 20 years to 13 years, 2 months, 22 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until July 6, 1963.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Floyd Tait, Jr., 363-C, No. 5059, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Floyd Tait, convicted of murder, in the second degree in the Court of Oyer and Terminer of Butler County on January 4, 1938, computed from November 2, 1937 be commuted from 30 years to 18 years, 10 months, 26 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of urther parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until November 2, 1967.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert J. Barker, E-2106, No. A-3234, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Robert J. Barker, convicted of burglary, in the Court f Quarter Sessins of Luzerne County on January 8, 1951, computed from December 26, 1950, be commuted from 7½ years to 5 years 11 months 20 days, expiring on December 16, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty years of age. He was sentenced for the crime of burglary for from 7½ to 15 years in the Eastern State Penitentiary.

The applicant plead guilty to breaking and entering a restaurant in Wilkes-Barre, likewise seven or eight other business places in that area. The applicant has a prior record but his chief trouble has been that he violates the law when under the influence of alcholic beverages.

The trial judge, the Honorable W. Alfred Valentine, expressed his opinion to the Parole investigator as unfavorable to release. The District Attorney of Luzerne County states that he is content to leave the matter to the discretion of the Board.

The staff of the penitentiary states that this applicant has an excellent work record and a very good conduct record and that they consider him deserving of consideration at this time, as he has shown marked improvement and over-all adjustment.

The Board is of the opinion that this young man will prove to be a credit to his family and to himself; and that he will no longer violate the law if released, and, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Anthony Tonty, No. A-3051, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Anthony Tonty, convicted of bribery, in the Court of Quarter Sessions of Erie Cunty on January 6, 1955, computed from May 21, 1956 be commuted from 1 year to 9 months, expiring on February 21, 1957.

Our reasons for making this recommendation are as follows:

This applicant is forty-six year of age. He was sentenced for from 1 to 2 years in the Erie County Prison for the offense of bribery.

The applicant was found guilty by the Jury in 1955, but appealed his case to the Superior Court of Pennsylvania, which Court sustained the judgment of the lower court. The applicant was then committed to the prison on May 21, 1956.

The applicant was one of a large group that was involved in the Erie bribery cases and who received various sentences by the Court of Erie County. The Board of Pardons has reviewed the applications of practically all the persons sentenced by the Court and have recommended a commutation of their sentences, averaging from nine months to one year.

The applicant's offense consisted of making payment to members of the Vice Squad to protect him in his gambling activities. The applicant, however, stated that his payments were made as political contributions.

The applicant had an arrest for lottery in 1950 and was fined but received no sentence.

The trial judge, the Honorable Elmer L. Evans, states that inasmuch as the others have received favorable consideration from this Board in the reduction of their terms he felt this application should be likewise favored. The District Attorney states he would recommend his release at this time. The Board believes that this applicant has been sufficiently punished and recommends that his sentence be reduced to a period of nine months from the effective date.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Robert Wade, 5728-D, No. 9614, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Robert Wade, convicted of larceny, burglary, prison breach, in the Court of Quarter Sessions of Monroe County on May 7, 1945, computed from April 5, 1945, be commuted from 25 years to 11 years 5 months 23 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 5, 1970.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Kenneth Wagner, 76260, No. A-3797, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Kenneth Wagner, convicted of armed robbery and receiving stolen goods in the Court of Oyer and Terminer of Allegheny County on November 17, 1954, computed from September 28, 1954 be commuted from 2½ years to 2 years 2 months 20 days, expiring on December 18, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-four years of age. He was sentenced for from 2½ to 5 years in the Allegheny County Workhouse for the crimes of armed robbery and receiving stolen goods.

The offenses consisted of holding up a taxicab driver in the City of Pittsburgh, from whom he secured about twelve dollars, and again, on the same night, holding up another taxicab driver and getting a similar sum of money. The applicant denied that he was armed. However, the jury adjudged him guilty of robbery and armed robbery.

Since his incarceration in September 1954 the applicant has conducted himself in a satisfactory manner in the Workhouse. He has not violated any rules and has never been reprimanded. The staff at the Allegheny County Workhouse believes he is worthy of release.

The trial judge, the Honorable Loran Lewis, did not supply the Board with his opinion as to the merits of the case. However, the Assistant District Attorney of Allegheny County stated to the Board that there was no objection to the exercise of clemency.

The accomplice of the applicant was committed to Thorn Hill School and has been released on probation.

The applicant has served over two years of his minimum sentence and the Board recommends commutation of his sentence.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William C. Ward, E-7113, No. A-3782, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William C. Ward, convicted of assault and battery and aggravated assault and battery in the Court of Quarter Sessions of Philadelphia County on January 19, 1956, computed from December 26, 1955 be commuted from 1½ years to 11 months, 20 days expiring on December 16, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-nine years of age. He was sentenced for from eighteen months to three years in the Philadelphia County Prison for the offense of aggravated assault and battery.

This offense originated on Christmas Day of 1955 when the applicant became in volved in a family argument wherein blows were struck by all concerned, and, particularly, the mother-in-law received a cut over the right eye in the scuffle. The basis for this altercation was overindulgence of all concerned in alcoholic beverages.

The record indicated that this was the applicant's first offense, and prior to his incarceration, he was regularly employed.

The sentencing judge, the Honorable Vincent A. Carroll states: The applicant is quick-tempered and loses control of himself very readily.*** This is the sort of case where the Board of Pardons might exercise executive clemency *** I would, therefore, recommend that the application be granted." The District Attorney's office did likewise state that there is no opposition to the granting of clemency.

The staff of the Holmesburg prinson states that this applicant has been extremely proficient in the Weave Shop and has not incurred any infractions of conduct and and is cooperative in every way.

The applicant has served over ten months and the Board believes that he has been sufficiently punished and recommends, therefore, that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.

(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Richard Washington, 120-C, No. A-3744, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Richard Washington, convicted of murder, second degree in the Court of Oyer and Terminer of Allegheny County on March 11, 1940, conputed from Ocotber 3, 1939 be commuted from 18 years to 16 years, 11 months, 25 days expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 3, 1957.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervison.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James H. Weaver, 2545-C, No. 9741, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of James H. Weaver, convicted of burglary, larceny, receiving stolen goods in the Court of Oyer and Terminer of Blair County on May 5, 1947, computed from March 7, 1947 be commuted from 13 years to 9 years, 6 months, 20 days expiring on September 27, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 7, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Kate Wells, 3311-B, No. A-310, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Kate Wells, convicted of murder, second degree, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on September 24, 1948, computed from September 24, 1948, be commuted from 10 years to 8 years, 4 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 24, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Henry Williams, 7048-C, No. 6693, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum

sentence of Henry Williams, convicted of robbery, in the Court of Oyer and Terminer of Allegheny County on April 14, 1932, computed from that date be commuted from 20 years to 6 years, 6 months, 14 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 13, 1970.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Jerry L. Yeager, 8904-C, No. A-3769, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Jerry L. Yeager, convicted of statutory rape and adultery, in the Court of Quarter Sessions of Clarion County on September 17, 1943, computed September 4, 1943, be commuted from 15 years to 13 years, 24 days, expiring on September 28, 1956.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until September 4, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry Robert Zietz, No. A-351, September Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the death sentence of Harry Robert Zietz, who was convicted of murder in the first degree, in the Court of Oyer and Terminer and General Jail Delivery of Bucks County on September 7, 1949, be commuted from death to life imprisonment.

Our reasons for making this recommendation are as follows:

In view of the recommendations of the Board of Pardons in the David Darcy application, and which is in part applicable to the Harry Robert Zietz trial, and in view of the fact that the Trial Court, in considering the plea of Felix Capone, imposed a life sentence rather than a death sentence, the Board of Pardons recommends that the sentence of Harry Robert Zietz be commuted from death to life imprisonment.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Sam Zavarelli, B-6412, No. 6671, October Session, 1956. (Recommended at November 1956 Session)

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Sam Zavarelli, convicted of murder in the first degree in the Court of Oyer and Terminer of Beaver County on November 10, 1938 be commuted from life imprisonment to 18 years, 2 months, expiring on January 10, 1957, so that he can be deported.

Our reasons for making this recommendation are as follows:

This applicant is fifty-six years of age. The applicant, in December 1928, was a member of a party of friends, who were having an extended Christmas celebration. The applicant became extremely intoxicated, left the club, and upon returning to Pittsburgh he was informed that one of his friends had been shot to death on that night of December 28th and that he was being accused of the crime. The applicant fled the jurisdiction and was not arrested until ten years later in West Virginia. He voluntarily returned to Pennsylvania and plead guilty to the crime.

During his incarceration he has, from all reports, conducted himself in a most satisfactory manner. He has removed his illiteracy. He has been saving his money and at the present time has a substantial sum saved.

The trial judge is deceased. However, the present judge, the Honorable Robert E. McCreary, has stated that he

was not opposed to the commutation provided the deportation detainer now lodged against him would be enforced. The penitentiary has a detainer on file from the Immigration and Naturalization Department to deport this applicant to Italy. The Board also has a letter on file that Italy will receive this applicant when deported. The District Attorney of Beaver County likewise offered no opposition provided the applicant is deported. Due notice will be given the authorities so that he may be deported.

The Board recommends that the sentence of this applicant be commuted so that he can be deported.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Clint Buntin, C-2538, No. 7465, October Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Clint Buntin, convicted of robbery, assault with intent to rob, larceny in the Court of Oyer and Terminer of Beaver County on March 28, 1952, computed from February 6, 1952 be commuted from 5 years to 4 years, 10 months, 10 days expiring on December 16, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-three years of age. He was sentenced by the Oyer and Terminer Court of Beaver County for the crime of robbery, assault with intent to rob and larceny for from 5 to 10 years in the Western State Penitentiary, effective February 6, 1952.

The offense was that of entering a clothing store in Ambridge, Pennsylvania, with an accomplice, under the pretense of making a purchase. They attacked the proprietor of the store and robbed him of about $65.00 in cash and merchandise to the value of $20.00.

The trial judge, the Honorable Robert E. McCreary, stated that he had no objection to a release of this applicant on parole. Likewise, the District Attorney of Beaver County stated to the parole investigator that he would rely upon the decision of the Board.

While confined in the penitentiary, the applicant has conducted himself very well and the staff reports that he has a fine institutional record. He is a dependable worker and accepts responsibilities. He has learned the barbering trade during his incarceration and has acquired considerable skill as a barber.

It appears to the Board that if released this applicant will enter the trade in which he has become proficient and that he will conduct himself in a satisfactory manner and not violate the laws of society again. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of William Francis Dagge, E-1309, No. A-2688, October Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of William Francis Dagge, convicted of robbery and assault in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on October 6, 1949, computed from September 9, 1949 be commuted from 10 years to 7 years, 3 months, 10 days expiring in December 19, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty years old. He was sentenced by the Oyer and Terminer Court of Delaware County for the crime of robbery and assault for from 10 to 20 years in the Eastern State Penitentiary, effective September 9, 1949.

The offense consisted of the fact that he and his accomplice hired a taxi in Philadelphia and requested that they be driven into Delaware County. On the way, they held up the driver and took thirty dollars from his purse.

The trial judge, the Honorable Harold L. Ervin, did not reply to our inquiry. However, the President Judge, the Honorable Henry G. Sweney, stated he saw no reason why the sentence should be commuted. The District Attorney, likewise, was opposed.

Since his incarceration the applicant has conducted himself in a very satisfactory manner. He has made definite attempts to self-improvement and is a qualified typist. The entire staff of the penitentiary recommends consideration of this application for clemency.

The Board is of the opinion that this young man has learned a lesson that will abide with him and that he will, if released, not again violate the law.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John Oscar Delarge, 7486-C, No. 6769, October Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John Oscar Delarge, convicted of Murder in the First Degree in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on November 20, 1930 be commuted from Life Imprisonment to 26 years, 2 months, expiring on January 20, 1957.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until end of life.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Rose Getz, No. 1564, October Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Rose Getz, convicted of Arson, Conspiracy to Commit Arson in the Court of Oyer and Terminer of Allegheny County, on September 23, 1932 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty-one years of age. She was found guilty of the crime of arson and conspiracy to commit arson and sentenced for from 10 to 20 years in the Western State Penitentiary on September 23, 1932. The Board of Pardons, on October 7, 1938, commuted the applicant's minimum sentence and she was released, and the Board later in December 1945 commuted her maximum sentence and she was released from parole supervision.

Since her release the applicant has resided in Detroit, Michigan, and the Parole Board of the State of Michigan advises us that she has conducted herself in an exemplary manner. They report that the applicant has purchased a number of valuable pieces of property in the Detroit area and has not only made a profit on the resale, but her income from the rental of properties that she now owns is substantial. They end their report by stating they would recommend favorable consideration, as they feel that since her release from the institution she has lived above average in every way and has certainly amounted to something not only materially but in a spiritual way. They further state: "Community-wise, we believe that she has made a contribution to the community in a small way and is not a threat to the security of the citizens of this community at this time nor is she likely to become one in the future."

The trial judge is deceased and the President Judge, the Honorable William H. McNaugher leaves the matter up to the Board and the District Attorney of Allegheny County advised the Board he had no objection to clemency.

The applicant expresses the desire that she be granted a pardon so that she may have an opportunity to run for public office in the near future. The Board, believing that this applicant will not again offend against the laws of society, and believing that she has been completely rehabilitated, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of John C. Gilmour, 6774, No. A-3808, October Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of John C. Gilmour, convicted of felonious entry, in the Court of Oyer and Terminer and Quarter Sessions of Dauphin County on June 1, 1948, be commuted from 10 years to 8 years, 7 months, expiring on January 1, 1957.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until May 15, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Shirley W. Jones, C-2948, No. A-2875, October Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Shirley W. Jones, convicted of burglary, larceny, receiving stolen property, in the Court of Quarter Sessions of Westmoreland County on December 4, 1952, be commuted from 20 years to 4 years, 10 days, expiring on December 14, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-six years of age. He was sentenced by the Court for from 20 to 40 years in the Western State Penitentiary.

This applicant, together with a group of young men, were involved in a series of burglaries of business places in and about Westmoreland County. The applicant, following his marriage, separated himself from this gang and no longer was a party to their offenses. However, two years after his separation from the gang, the gang held up a paymaster, robbing and shooting him fatally. Subsequent investigation of this killing, indicated that the applicant had been a member of the group and was, therefore, indicted for offenses committed while a member of this gang. During the days that he was a member of the group he was involved in two offenses. Since his marriage and separation from the gang he has conducted himself in a satisfactory manner.

The trial judge, the Honorable Richard D. Laird, believes that the applicant's release at this time would be premature. Likewise, the District Attorney expressed a similar opinion.

The prison staff states that since his incarceration he has a fine institutional record and has conducted himself in the penitentiary in an exceptional way for a first offender.

The Board believes that the applicant, having divorced himself from associations that were leading him into difficulty, is deserving of consideration of the Board, and, therefore, recommends commutation.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
NOT SITTING,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Winfield Jones, 7197-D, No. 8346, October Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Winfield Jones, convicted of murder in the second degree, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on January 22, 1942, be commuted from 20 years to 15 years, 1 month, expiring on January 18, 1957.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until December 18, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry Phillips 2884-D, No. 7642, October Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Harry Phillips, convicted of assault, being armed with offensive weapon with intent to kill, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on April 2, 1941, be commuted from 20 years to 15 years, 10 months, expiring on January 26, 1957.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until March 20, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Michael Sarzynski, No. A-3815, October Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Michael Sarzynski, convicted of voluntary manslaughter, in the Court of Oyer and Terminer of Schuylkill County, on May 14, 1917 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is sixty years of age. He was sentenced by the Court of Schuylkill County to seven years in the Schuylkill County Prison.

The applicant's offense consisted in engaging in a fight in a barroom wherein he struck his friend a blow with his fist, and the victim, in falling, struck his head and died about thirty days later. The applicant, an immigrant at the time, was in this country about two years.

After serving about four years, eleven months of his seven year sentence, the applicant was released from the prison. Since his release the applicant has not been involved in any violation of the law. The applicant is a coal miner and is now retired. His sons and daughters are married and he is applying for a full pardon so that he may become a United States Citizen.

The trial judge is deceased and the President Judge, the Honorable Cyrus M. Palmer, states to the Board that he is not familiar with the case and, therefore, unable to make any recommendation. Likewise, the District Attorney of Schuylkill County made no comment.

This applicant, since his release in 1924, over thirty years ago, has lead an exemplary life and all reports indicate that he is well liked in the community in which he lives. The Board, therefore, believing that this applicant is deserving of executive clemency in order for him to attain a life-time ambition of becoming an American citizen, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
NOT SITTING,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Samuel Stewart, E-2077, No. A-1604, October Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Samuel Stewart, convicted of assault to rob; and armed robbery in the Court of Oyer and Terminer of Philadelphia County on December 21, 1950, computed from December 5, 1950 be commuted from 7 years to 6 years 10 days expiring on December 15, 1956.

Our reasons for making this recommendation are as follows:

This applicant is thirty-three years of age. He was sentenced by the Oyer and Terminer Court of Philadelphia County for the crime of armed robbery. and assault to rob, from from 7 to 14 years to the Eastern State Penitentiary, effective December 5, 1950.

The applicant's offense was that he and his accomplice entered a taxicab and robbed the taxi driver. The details of the crime do not reveal that a revolver was used in the commission of this offense, although it was definitely stated that when the accomplice, or the applicant, stated to the driver that this was a hold-up and a hard object was thrust into the back of the taxi driver.

During his incarceration, the applicant has had a good prison record and the report from the prison states that the entire staff recommends clemency. He has a good institutional record and has made definite efforts of self-improvement.

The trial judge is deceased but the President Judge, the Honorable Eugene V. Alessandroni, stated that he would rely upon the decision of the Board. The District Attorney stated to the Board that he was not opposed to the granting of clemency. The applicant has served almost his entire minimum sentence and there is reason to believe that if released he will not again offend the laws of society. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Richard L. Whitesell, C-3755, No. A-3803, October Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having ben heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Richard L. Whitesell, convicted of rape and assault with intent to ravish in the Court of Oyer and Terminer of Butler County on April 6, 1955 be commuted from 4½ years to 1 year, 8 months, 10 days, expiring on December 16, 1956.

Our reasons for making this recommendation are as follows:

This applicant is twenty-nine years of age. He was sentenced by the Oyer and Terminer Court of Butler County for the crime of rape and assault with intent to ravish and sentenced for from 4½ to 9 years in the Western State Penitentiary, effective April 5, 1955.

His offense consisted in having intercourse with a girl about fourteen years of age, who had come to his home to "baby sit" while his wife went to the movies.

The trial judge, the Honorable Clyde S. Shumaker stated: "I have no objection if the Board should give this matter favorable consideration." The district attorney of Butler County stated he had no objections to a commutation of sentence. The former district attorney, who prosecuted the case for the Commonwealth, stated: "In the opinion of the writer the penal servitude already endured by this applicant is greatly out of proportion to the gravity of the offense committed, and I, therefore, would heartily recommend sympathetic consideration on the part of the Board . . ."

The institution staff states that the applicant has an excellent institutional record and that he has profited considerably from his incarceration. The applicant had no prior criminal record, and there is every reason to believe that he will conduct himself in the future in a satisfactory manner. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M LEADER,
Governor.

BOARD OF PARDONS

In re application of Nelson Ira Andrews, 1678-E, No. A-3880, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylavnia:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Nelson Ira Andrews, convicted of burglary, larceny and receiving in the Court of Oyer and Terminer of Lehigh County on December 7, 1954, computed from February 24, 1956 be commuted from 1 year to 11 months expiring on January 24, 1957.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age. He had, prior thereto, been sentenced by the Northamption County Court for from two to four years, effective in May, 1954, The Northampton County sentence has been served and the the applicant was paroled on February 24, 1956 to enter upon the above sentence.

The warden of the Lehigh County Prison, where the applicant is presently incarcerated, states: "Based on my observation of him it is my belief that . . . he would not likely to become a parole violator. . . ."

The sentencing judge, the Honorable James F. Henninger, states: "I have no objection to his obtaining a commutation that would release him a few months ahead of the expiration of his minimum sentence." The sentencing judge of Northampton County, the Honorable William G. Barthold, although the applicant has served his minimum sentence imposed by that County, stated that he would rely on the Board's decision. The Board is also in receipt of a letter from the Honorable Carleton T. Woodring, who was on the Bench when the applicant was sentenced in Northampton County, stating that he knew the applicant's father, and that: "I am certain that an order of commutation in this case will meet with widespread approval and acceptance."

The applicant had no prior criminal record and the Board is of the opinion that this applicant has been sufficiently punished for his offenses and believes that, if released, he will not revert to a life of crime. The Board, therefore, recommends that the Lehigh County sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of James Barnett, B-6722, No. A-3473, September Session, 1956, (Recommended at November, 1956 Session).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of James Barnett, convicted of murder in the first degree, in the Court of Oyer and Terminer of Allegheny County on May 15, 1939, be commuted from life imprisonment to 17 years 8 months expiring on January 15, 1957.

Our reasons for making this recommendation are as follows:

This applicant is thirty-nine years of age. He and two accomplices, all youths, indulged in alcoholic beverages, and entered a store in Turtle Creek, Penna. One of the accomplices pulled a gun, a scuffle ensued, the gun was discharged, and the proprietor of the store was fatally injured. The applicant, and his accomplices, all received life sentences. This group had been engaged in a series of armed robberies, holding up pedestrians and small stores late in the evening.

Besides the life sentence this applicant has four indictments for robbery and receiving stolen goods.

This was the first offense of this applicant and he has been continuously confined for over seventeen years. The penitentiary staff reports that his work and conduct records have been excellent, there has never been a misconduct report against him. He has carried out a program of self-improvement, has attended the prison school and has completed many courses in farming.

The trail judge, the Honorable W. Walter Braham, writes the Board that he feels the time has come for trying this applicant on parole. He feels that this applicant, if released, will go straight and give the law no more trouble. The District Attorney expressed no opposition to the granting of this application.

The Board has on file a petition, containing hundreds of names, of citizens requesting that the Board give this applicant consideration as they feel he has paid his debt and should get a new start in life.

The Board, taking into consideration all the facts that have been presented, especially the recommendation of the prison staff and the trail judge, and believing that this applicant will not again offend against society, recommends that commutation be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Felix Bitner, 3687-B, No. A-3845, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Felix Bitner, convicted of sodomy, statutory rape and incest in the Court of Oyer and Terminer of Fayette County October 25, 1948, be commuted from 10 years to 8 years 9 months expiring on January 3, 1957.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 3, 1958.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harold R. Bradley, C-1004, No. A-3287. November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Harold R. Bradley, convicted of burglary, larceny and receiving stolen goods, in the Court of Oyer and Terminer of Blair County on February 2, 1949, computed from January 25, 1949, be commuted from 12 years to 8 years expiring on January 25, 1957.

Our reasons for making this recommendation are as follows:

This applicant is twenty-seven years of age. The applicant committed a series of offenses in Blair County from November 1948 to January 1949. He carried out these offenses without accomplices.

During the applicant's incarceration the prison staff believes that this young man, who was twenty years of age at the time of the commission of those offenses, has shown an excellent adjustment and efforts at self-improvement. He has completed courses in sign painting, typing and agriculture. The staff further states that he has shown adjustment and maturity and they recommend the consideration of this application.

The District Attorney, Park H. Loose, Esquire, states to the Board that they have no objection to favorable action being taken on this application. The trail judge is deceased and the Board did not receive any expression of opinion as to merits of this case from the present judge.

The Board, having received so favorable a report as to the improvement of this young man while confined, believes that he is ready for release and will not return to a life of crime. The Board further noted that he has qualified as an operator of printing presses and has learned a trade that will fit him for society. The Board, therefore, recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward S. Christe, No. 5344, October Session 1956, (Recommended November 1956 Session)

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Edward S. Christe, convicted of breaking and entering, larceny and receiving stolen goods, in the Court of Quarter Sessions of Allegheny County on September 30, 1935; and further convicted of driving while under the influence of Intoxicating liquor in the Court of Quarter Sessions of Allegheny County on March 16, 1937, be pardoned.

This applicant is fifty-five years of age. The offense, committed in 1935, consisted of breaking into stores and taverns, where articles of value were stolen. The applicant was accompanied by accomplices. For these offenses the applicant received a supended sentence. In 1937 the applicant was sentenced for driving while under the influence of intoxicating liquor and was given a sentence of thirty days. He served this sentence in the Allegheny County Workhouse. He was also found not guilty in 1944 of an offense, and in 1948, of selling liquor to intoxicated persons, to which a demurrer was filed.

Since 1948 the applicant has conducted himself in a satisfactory manner and has not been involved in any major criminal offense. At present he is an employe of the Moose Lodge in Pittsburgh and he is in line for election to an office in the Lodge. This honor, which his fellow-lodge members wish to bestow upon him is an indication of the esteem to which he is held by the club members. The Board is in receipt of letters from various public persons in the City of Pittsburgh attesting to the standing of the applicant in his community.

The trial judge, the Honorable Thomas Marshall, stated he does not remember the case and has no information about it. The other judge is deceased. The present District Attorney offers no objection to granting of this pardon.

The Board believes that this man, who has demonstrated for the past number of years his good conduct and is now deemed worthy of election to an office in the Moose Club can well receive the mercy of the Commonwealth, and the Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re applicaion of Charles Darnell. No. A-3874, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Charles Darnell, convicted of larceny and involuntary manslaughter in the Court of Oyer and Terminer of Allegheny County, on October 19, 1928 and March 3, 1937 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age. When this applicant was seventeen years of age be committed his first offense. Later in 1937 he took a truck and in its operation it jumped a curb, struck a pedestrian, who later died.

The applicant was released from the Allegheny County Workhouse in August 1937. Since his release he has been profitably employed as a plumber and steamfitter. This applicant has been active in community and union labor

affairs and he is desirous of becoming an officer in his union. It was stated to the Board that it was necessary for an officer of the union to be free of any criminal record.

During the past twenty years the applicant has not violated the law and has become a law-abiding citizen.

The President Judge, the Honorable William H. McNaugher, states that "Since Judge John Drew is no longer in commission and Judge John P. Eagen is deceased, I have no information on the case and have no recommendation to make." The district attorney's represensentative, from Allegheny County, stated to the Board that he had no opposition to the granting of the prayer of this applicant.

The Board believes that this applicant, who has demonstrated for the past twenty years that he will live a law-abiding life, and who is desirous of advancing himself both in his community and in union labor circles, is worthy of a pardon. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor,
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Albert Louis Ferretti, No. A-3246, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Albert Louis Ferretti, convicted of armed robbery in the Court of Oyer and Terminer of Allegheny County on June 10, 1953 be commuted from 10 years to 6 years, 7 months, expiring on January 19, 1957.

Our reasons for making this recommendation are as follows:

This applicant is thirty-one years of age. He, together with two accomplices, held up a taxi-driver and robbed him of a sum of money. The applicant did have a prior record involving larceny of automobile in 1945 and 1948.

The applicant was released from the Allegheny County Workhouse in June 1953 and he is now out on parole until the expiration of his maximum sentence.

Since his release the applicant has been employed by the Kaufman's Parking Lot in Pittsburgh.

The trial judge, the Honorable Harry M. Montgomery, states that he has no objection to commutation of the maximum sentence of the applicant. Likewise, the district attorney's representative stated he was not opposed.

The applicant is now married, has one child, and resides in Pittsburgh. He is earning around thre hundred dollars a month and the Board of Parole states that he is conducting himself in a satisfactory manner. A further report that contacts with employer and the neighbors, indicate that the applicant has made a satisfactory adjustment since his release. The applicant, in order to advance himself, connected as he is with a parking garage, requires a motor operator's license, and the only way he may obtain this license is by a commutation of his maximum sentence.

The Board recommends, in view of the fact that he has been in no further trouble and in order to permit him to advance himself in his work, that his maximum sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor,
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Alfonso M. Fuglio, E-1830, No. 4577, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Alfonso M. Fuglio, who plead guilty to burglary and larceny. and conspiracy, in the Court of Quarter Sessions of Delaware County on October 10th and 11th, 1944, computed from August 21, 1950, be commuted from 21 years to 6 years, 5 months, expiring on January 21, 1957, and further recommend that the minimum sentence of Alfonso M. Fuglio, who plead guilty to burglary, etc., in the Court of Quarter Sessions of Montgonmery County on October 27, 1945, computed from August 21, 1950, be commuted from 10 years to 6 years, 5 months, expiring on January 21, 1957.

Our reasons for making this recommendation are as follows:

This applicant is forty six years of age. He, together with seven accomplices, were involved in about eighteen burglaries, during the summer and fall of 1944, of unoccupied homes. Their activities ranged in both Delaware and Montgomery Counties. These offenses resulted in the theft of money, jewelry and household items from many homes in that area.

Upon the arrest of the applicant by the State police, the arresting officer, who was present at the hearing, stated to the Board that the cooperation and help of the applicant was most valuable and that the applicant cooperated fully with the police in cleaning up these series of offienses and resulted in the arrest of the accomplices.

The prison staff stated that this applicant has an excellent institutional record and has shown marked improvement in his personality.

The President Judge, the Honorable Henry G. Sweney, of Delaware County, expressed his objection to clemency. However, the district atorney of Delaware County stated that the application merits consideration in view of the progress that this applicant has made in the penitentiary. The Montgomery County Court, through the Honorable Geore C. Corson, stated to the Parole Agent, that he favored communtation if the facts in the case and the conduct of the applicant justified it. The district attorney of Montgomery County did not reply to our inquiry.

The Board is of the opinion that this applicant, if released, will live a law-abiding life and recommends that both his Delaware and Montgomery County sentences be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor,
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Richard J. Groter, B-6724, No. 8944, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sectence of Richard J. Groter, convicted of murder in the first degree, in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on May 15, 1939, be commuted from life imprisonment to 17 years, 8 months, expiring on January 15, 1957.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He was barely twenty years of age when he, together with two accomplices, also youths, after indulging in some alcoholic beverages, entered a store in Turtle Creek, Pennsylvania. While in the store, one of the accomplices pulled a gun, and in the ensuing scuffle with the proprietor, the gun was discharged and the proprietor of this store was fatally injured. The applicant, together with his two accomplices, received sentences of life imprisonment.

During his confinement in the penitentiary it is reported that he has conducted himself in a very satisfactory manner. He is employed as the Head Laboratory Technician in the prison hospital and from reports received he is qualified to take a similar position in any hospital.

The trial judge, the Honorable W. Walter Braham, did not reply to our letter of inquiry as to whether or not he was opposed to release. The District Attorney's representative, of Allegheny County, stated before the Board that he had no objection to the release of this man as he had made a excellent adjustment.

The Board has a letter from the Superintendent of North Braddock Public Schools stating that he believes this applicant will be an excellent citizen and will adjust himself very rapidly to the society of which he would be a part. He has offered to act as his sponsor.

The Board also has a letter signed by the members of the victim's family, the wife and children, stating: "We wish it to be known that we have no objection to his being paroled if the Board seems fit to do so."

In view of the fact that this applicant has spent nearly eighteen years of his young life in the penitentiary and has shown such excellent improvement in his personality, and with the assistance from all those who are interested in his welfare, on the prison staff, friends and relatives, the Board believes that he will, if released, conduct himself as a law-abiding citizen. The Board, therefore, recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Anthony Guillano, 6989, No. 8581, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Anthony Guillano, convicted of robbery, receiving stolen goods, in the Court of Oyer and Terminer of Allegheny County on June 10, 1931 computed from January 10, 1951, be commuted from 10 years to 5 years, 7 months, expiring on January 10, 1957.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until June 10, 1961.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Daniel Hilferty, 5674-D, No. 8732, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Daniel Hilferty, convicted of armed to rob, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on June 5, 1940, be commuted from 20 years to 16 years, 9 months, expiring on January 15, 1957.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until April 15, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.

(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Harry W. Johnston, D-6881, No. A-1871, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Harry W. Johnson, convicted of murder in the first degree, in the Court of Quarter Sessions of Philadelphia County on December 18, 1942, be commuted from life imprisonment to 14 years, 1 month, expiring on January 18, 1957.

Our reasons for making this recommendation are as follows:

This applicant is forty years of age. He was engaged to be married to a young lady and their engagement had been announced and the rings purchased. He left the city of Philadelphia for a few days and when he returned he found that the young lady had left the apartment where she had been living. Several days later he found the girl living with another man and as a result of this knowledge he started to drink. While in an intoxicated condition he went to the apartment where this young lady was living and following a violent argument he shot and killed her.

He has been incarcerated about fourteen years and the penitentiary authorities report that he has a fine institutional record and his efforts at self-improvement are splendid.

The trial judge, the Honorable Vincent A. Carroll, stated that he had previously written the Board in 1954, expressing the opinion that this case merited favorable consideration, and he was still of that opinion and would recommend favorable action by the Board. The prison chaplain, Rev. Alfred M. Smith, writes to the Board that he knows of no man who has shown deeper regret, than the applicant for the crime he committed and who wants to make up, in every way, for his wrongs. Rev. Smith writes: "I recommend him most sincerely to the Board for favorable consideration." The District Attorney's office, stated that this application was unusually meritorious and therefore, recommends favorable consideration. The Board believes that this applicant will adjust quickly. The Board recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Milton H. Kaye, No. 9305, September Session, 1956. (Recommended November 1956 Session).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that Milton H. Kaye, convicted of Receiving Stolen Goods in the Court of Oyer and Terminer and Quarter Sessions of Montgomery County, on December 5, 1947 be pardoned.

Our reasons for making this recommendation are as follows:

This applicant is fifty years of age. It appears that the applicant had opened a nylon hosiery mill and bought a quantity of unseamed nylon hose. This hose had been stolen. The applicant, through his father-in-law, innocently purchased this hosiery. Later it was shown to have been stolen hosiery. It developed that the father-in-law had influenced the applicant in purchasing this hosiery and talked this young man into making the purchase, knowing of its stolen character.

The applicant was sentenced and served six months in the Montgomery County Prison. Following his release, he moved to Florida and is now emplyed by the Pan American Airways. He has an opportunity to become the dental examiner for the employes of that organization, and he can receive a license to practice dentistry in the State of Florida, provided he receives a pardon. The applicant is a graduate of the University of Pittsburgh, School of Dentistry, and the Board has been informed that this is one of the finest opportunities this man has had in his lifetime.

The applicant is married and has two children. Inquiry was made as to the martial relationship and the Board learned that he is divorced from his wife although he is maintaining support of the two children. The Board is in receipt of a letter from his ex-wife urging that clemency be shown to him.

The Board is of the opinion that this man, who is conducting himself properly and who had no prior criminal record, and whose involvement in this crime was an innocent one having been urged by his father-in-law to buy this hosiery, is deserving of a pardon so that he may have an opportunity to further himself and better his job. The Board, therefore, recommends that a pardon be granted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Charles Leach, 2101-D, No. 6090, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Charles Leach, convicted of Burglary in the Court of Oyer and Terminer, and Quarter Sessions of Philadelphia County on March 28, 1939 be commuted from 40 years to 17 years 11 months expiring on January 15, 1957.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until February 15, 1979.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of David Long, D-9492, No. 9359, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of David Long, convicted of Burglary in the Court of Oyer and Terminer of Philadelphia County on February 27, 1947, computed from February 24, 1947 be commuted from 10 years to 9 months 11 days expiring on January 24, 1957.

Our reasons for making this recommendation are as follows:

This applicant, together with an accomplice, was found near a Pennsylvania Liquor Control Store and arrested on the charge of burglary. The report indicates that the applicant was found sleeping near the elevator shaft. There was no robbery of liquor reported.

The applicant received a severe sentence based on his prior record. An investigation of this record indicates that he was only incarcerated for from one to three years on a charge of larceny back in 1938. He had numerous arrests on suspicion.

The sentencing Judge, the Honorable Vincent A. Carroll, stated that he was not opposed to the granting of clemency, and the District Attorney of Philadelphia County likewise expressed to the Board his feeling that clemency could well be granted to this applicant.

During his incarceration, his institutional record has been excellent and he has learned the trade of butcher in the penitentiary. The applicant has served almost his minimum sentence and the Board believes that this applicant, having undergone a lengthy imprisonment, together with the fact that he has learned a profitable trade, will not be inclined to again violate the law, and, therefore, recommends his sentence be commuted.

Respectfully submitted,

NOT SITTING,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Ralph Mastermonico, C-635, No. A-636, October Session, 1956. (Recommended November 1956 Session).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Ralph Mastermonico, convicted of burglary in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on April 30, 1948, computed from April 26, 1948 be commuted from 10 years to 9 years expiring on April 26, 1957.

Our reasons for making this recommendation are as follows:

This applicant is thirty-five years of age. He, with a group of accomplices, participated in a series of burglaries of private homes in and around the City of Pittsburgh. Money, jewelry and clothing were stolen, although no fire-arms were ever carried, or physical violence committed in the perpetration of these crimes. All of the ten accomplices have been released on parole at the expiration of their minimum sentences, except two, DiPofi and Wilson, both confined at the Western State Penitentiary.

This applicant has been confined over eight years. The penitentiary authorities report that he has conducted himself in a satisfactory manner. The last few years he has become quite matured and has demonstrated his increased stability. His institutional record has been quite favorable and he has shown a favorable attitude which coincides with his successful attempts at rehabilitation. This applicant had a prior criminal record.

The trial judge, the Honorable Henry X. O'Brien, has not written us as to the merits of this application. However, the District Attorney did not oppose a commutation.

The applicant comes from a good family in the City of Pittsburgh and he appears to have misbehaved himself when other members of the family have conducted themselves so favorable and well. The pastor of his church writes the Board that he will act as his sponsor and will help him in every way possible. The Board believes that under this sponsorship, and with the help of his family, he will make a worthwhile life for himself, and the Board, therefore, recommends his sentence be commuted, when he has served nine years.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Francis A. Murphy, E-2632, No. A-2192, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Francis A. Murphy, convicted of armed robbery, in the Court of Oyer and Terminer of Philadelphia County on December 9, 1948, computed from November 15, 1951, be commuted from 6 years to 5 years, 2 months, expiring on January 15, 1957.

Our reasons for making this recommendation are as follows:

This applicant is forty-three years of age. He, together with an accomplice, after some heavy drinking, entered an office in Philadelphia and held up the manager, together with four other persons present, at the point of a gun, and relieved them of over two hundred dollars.

The applicant has spent over five years in the penitentiary and the prison staff reports that he has a good institutional adjustment and has endeavored to improve himself. During his incarceration his wife has been most loyal and it was stated that not a week has passed that she does not visit, or write, the applicant. He has learned typing and printing and is well qualified to handle a job, if released.

The trial judge, the Honorable Louis E. Levinthal, did not write the Board as to his opinion of the merits of the case. However, the District Attorney of Philadelphia County is not opposed to the granting of clemency. Mr. Reed stated to the Board that when he interviewed the applicant he was unusually impressed with this man. He expressed the further opinion that the man has become adjusted and stable.

The Board is of the opinion that despite the fact that he has a previous criminal record he will not again violate the laws of society. Confidence was expressed that this applicant has by his sincere efforts of adjustment within the prison demonstrated the fact that he is determined to live a law-abiding life. The Board, therefore, recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Artis Myrick, 7396-C, No. 6748, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the maximum sentence of Artis Myrick, convicted of robbery, in the Court of Oyer and Terminer and Quarter Sessions of Philadelphia County on October 31, 1940, be commuted from 20 years to 16 years, 3 months, expiring on January 9, 1957.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until October 9, 1960.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Marion Scott D-1668, No. 8653, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Marion Scott, convicted of murder in the first degree, in the Court of Oyer and Terminer and Quarter Sessions of Delaware County on October 6, 1936, be commuted from life imprisonment to 20 years, 3 months, expiring on January 6, 1957.

Our reasons for making this recommendation are as follows:

This applicant is forty-five years of age. He was separated from his wife by reason of the gossip being circulated that he was "running around" with other women. In an effort to become reconciled he called upon his wife and in the discussion which was preceeded by some drinking on the part of each, the wife threatened the applicant with a kitchen knife while the applicant grabbed a stove shaker. The applicant struck the victim over the head with the stove shaker, grabbed the knife and stabbed the victim to death. Immediately following the tragedy the applicant voluntarily went to the police and gave himself up.

For the past twenty years the applicant has been incarcerated. The Penitentiary staff reports that he has an excellent institutional record and has become a mature man. During his confinement he has been employed in several activities, of which is that of watch repairer. He has acquired the habit of industry and thrift and appears to be more mature and has an excellent outlook on life.

The trial judge is deceased and the President Judge, the Honorable Henry G. Sweney, states that he is opposed to clemency. The District Attorney, Raymond R. Start, writes the Board that consideration should be given as to whether or not this applicant has been rehabilitated and if so, "we would leave the matter in the hands of the Pardon Board to make a decision."

The prior criminal record of the applicant is negligible The Board believes that this applicant, having spent over twenty years in the penitentiary, is now ready for release. The crime could well have been a second degree murder and the sentence only from ten to twenty years. The elements of second degree murder are stronger than that of first degree, in this case, and such being the fact, the applicant has spent the maximum sentence for second degree murder in the penitentiary. The Board believes that this applicant, who has demonstrated maturity and stability, will not again offend the laws of society, and recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN—Dissents
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Wilmer Shankle, 3864-C, No. 8605, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommended that the maximum sentence of Wilmer Shankle, convicted of burglary, larceny, aiding an attempted prison break, in the Court of Oyer and Terminer of Indiana County on October 9, 1944, be commuted from 18½ years to 12 years, 3 months, expiring on January 9, 1957.

Our reasons for making this recommendation are as follows:

The Board of Parole has received a request from the applicant to be relieved of further parole supervision on the basis of his adjustment and progress on parole. The Board of Parole has favorably recommended this action to the Board of Pardons after reviewing his record. But for this action the applicant, because of his sentence, would remain on parole until January 25, 1963.

For the reason that this applicant has served a long time on parole, and the further reason, that the Board of Parole recommends him for release, the Board of Pardons recommends to your Excellency that the term of the maximum sentence of the applicant be commuted and that he be freed from further parole supervision.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Paul L. Sheaffer, C-3798, No. 8397, September Session, 1956. (Recommended November 1956 Session).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Paul L. Sheaffer, convicted of murder in the first degree in the Court of Oyer and Terminer of Perry County on February 7, 1927 be commuted from life imprisonment to 29 years 11 months expiring on January 7, 1957.

Our reasons for making this recommendation are as follows:

This applicant is fifty-nine years of age. He was sentenced to life imprisonment for the crime of murder arising in Perry County in December 1926.

The applicant was employed by the victim on his farm and was on the place only a few days prior to the murder. The applicant struck George B. Shull with a club and beat him so severely that he died. Then, on the same day, he attacked the wife, Ella Shull, and beat her to death. After that, he kidnapped the daughter. Fortunately he left her out of the automobile in which he was transporting her without harm, but threatened her life.

The applicant pleaded guilty to the murder of both George B. Shull and Ella Shull and was sentenced to life imprisonment for the murder of Ella Shull. The Perry County authorities have not brought him to trial for the murder of George B. Shull, although they have lodged a detainer against him.

The applicant has been incarcerated for over twenty-nine years. The prison authorities state that during that period of time he has established an outstanding institutional record. This includes an unblemished disciplinary record. He has been working as a clerk in the office of the penitentiary and the prison staff are in accord in recommending leniency for this applicant.

The applicant has made arrangements to reside in Philadelphia and employment has been promised him. Likewise, he will not be entirely without income for under the will of the late Mary Rieck, of Pittsburgh, he receives a $50.00 monthly annunity as long as he lives.

The applicant assures the Board that he will not return to Perry County, although the Perry County authorities have lodged a detainer against him, for the murder of George B. Shull to No. 2 January Term 1927.

The sentencing Judge is deceased. However, the President Judge, the Honorable Harry B. Crytzer, the Associate Judges, and the District Attorney of Perry County, are opposed to the granting of clemency on behalf of this applicant. Although time has not entirely erased the memory of this crime from the minds of the citizens of Perry County, it must be considered that if any man has been punished for an offense, this applicant has been so punished.

However, the Board believes that this man, having been incarcerated for nearly thirty years, and having demonstrated stability and maturity while incarcerated, and who has won the approval of every member of the prison staff for his exemplary conduct and ability, is deserving of clemency. Further incarceration would prove of no benefit to the applicant, to the Commonwealth, or to society. The Board further believes that if this applicant is released he will never again offend against the laws of society. The Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN, (Dissents)
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Frank Dominick Teny, 78584, No. A-3310, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimum sentence of Frank Dominick Teny, convicted of sodomy in the Court of Oyer and Terminer of Allegheny County on October 23, 1953, computed from April 17, 1956 be commuted from 2 years to 9 months expiring on January 17, 1957.

Our reasons for making this recommendation are as follows:

This applicant is twenty-eight years of age. He was arrested in September 1951 for sodomy in Allegheny County and placed on probation for a period of five years. Later, in 1953, he committed an offense of rape in Beaver County and because of this offense, for which he received a sentence of 1½ to 15 years, the Courts of Allegheny

County revoked the probation and sentenced him to a term of 2 to 4 years, to follow the Beaver County sentence. He was paroled at the expiration of his minimum sentence of Beaver County and in April of this year started to serve his sentence of 2 to 4 years imposed by the Allegheny County Court.

The offense consisted of having illegal carnal relations with a girl in the vicinity of Ambridge, Allegheny County, following the offense in Beaver County.

The Board of Pardons, in February 1956, commuted the applicant's Beaver County sentence.

The sentencing judge is no longer on the Bench and the President Judge, the Honorable William H. McNaugher, has not made any comment. The District Attorney of Allegheny County, expressed opposition, through his representative. However, the Board, believing that this applicant has learned his lesson recommends that his Allegheny County sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER, (Dissents)
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Claude Toney, C-1751, No. A-1701, June Session, 1956. (Recommended November 1956 Session).

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minimun sentence of Claude Toney, convicted of armed robbery; assault with intent to kill and larceny in the Court of Oyer and Terminer and Quarter Sessions of Allegheny County on June 23, 1950, computed from August 3, 1949 be commuted from 15 years to 7 years, 5 months, expiring on January 3, 1957.

Our reasons for making this recommendation are as follows:

This applicant is thirty-two years of age. He, together with several accomplices, were involved in a series of crimes in Allegheny County. In one of the crimes, the applicant was accused of driving the get-way car. In this escape a running gun fire took place. The subsequent arrest of all involved resulted in severe punishment of all members of the gang. Several, however, were acquitted so that the net result was that the applicant received a heavy sentence.

The applicant is the brother of the notorious Virgil Toney, who, from all reports, appeared to be the leader of this group. The applicant had no prior criminal record although he was arrested one time, but not convicted.

During his incarceration the applicant has made a very satisfactory adjustment. Of his assignments of work he has assumed responsibility and has been placed in a position of trust. The prison staff speaks highly of his efforts of adjustment and change of personality

The sentencing judge, the Honorable Harry M. Montgomery, in a letter of November 1954, and re-affirmed since then, states that he views with favor the commutation of sentence. However, another sentencing judge, the Honorable F. Cortz Bell, now retired from the bench, is opposed. The district attorney of Allegheny County stated to the board in writing, that this application merits consideration.

The Board has a letter from B. Lynn Harriman, psychologist, stating he considers the applicant to be a highly intelligent person, and recommending clemency.

The applicant, who is stabilized and readjusted has spent over seven years in the penitentiary. The Board feels that he will not again offend against the laws of society and will make a successful life in the future becoming a credit to society and his family. The Board, therefore, recommends his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER—Dissents,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgd) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

BOARD OF PARDONS

In re application of Edward Wheeler, D-2298, No. 8534, November Session, 1956.

To His Excellency, the Governor of the Commonwealth of Pennsylvania:

Sir: The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the minium sentence of Edward Wheeler, convicted of murder in the first degree in the Court of Quarter Sessions of Philadelphia County on June 29, 1937 be commuted from life imprisonment to 19 years 7 months, expiring on January 29, 1957.

Our reasons for making this recommendation are as follows:

This applicant is thirty-eight years of age. He, together with accomplices, entered a restaurant and in the course of a robbery, a man working in a garage next door, caught them in the act. The applicant tried to release himself from the grasp of the victim, but was unable to do so until his accomplice struck the victim over the head with a hammer. This severe blow caused the death of the victim.

The applicant was sentenced to life imprisonment. The accomplice was likewise sentenced to life imprisonment, but died in prison in July 1945.

During his incarceration the aplicant has shown marked self-improvement and has adjusted himself very well.

The trial judge is deceased, but President Judge, the Honorable Eugene V. Alessandroni, stated to the Board that he relied upon the discretion of the Board in this matter. The district attorney's representative, stated that he was not opposed to the extension of clemency.

It was reported to the Board that this man, during the nineteen years he has been incarcerated, has been remarkably free from any fmisconduct reports, and has taken many courses of study from the I. C. S. and has made good progress in all of them. Certainly the applicant has improved himself mentally during these years.

The Board believes that this applicant, if released, will not return to a life of crime, and the Board, therefore, recommends that his sentence be commuted.

Respectfully submitted,

(Sgd) ROY E. FURMAN,
Lieutenant Governor.
(Sgd) HENRY E. HARNER,
Secretary of the Commonwealth.
(Sgd) HERBERT B. COHEN,
Attorney General.
(Sgr) GENEVIEVE BLATT,
Secretary of Internal Affairs.

The above recommendation is approved:

(Sgd) GEORGE M. LEADER,
Governor.

THE LEHIGH COAL AND NAVIGATION COMPANY

528 North New Street, Bethlehem, Pennsylvania
W. B. Joachim, Jr., Secretary
W. E. Spatig, Ass't Secretary

December 17, 1956

To the Senate and House of Representatives of the Commonwealth of Pennsylvania in the General Assembly met:

In compliance with the requirements of the 19th Section of the Act of Assembly, passed March 20, 1818, entitled "An Act to Improve the Navigation of the River Lehigh," I wish to report that no tolls were received on the Lehigh Navigation during the year 1956.

Very truly yours,

W. E. SPATIG,
Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF NORTHAMPTON } SS

Before me, the subscribed, a Notary Public of the County of Northampton and Commonwealth of Pennsylvania, personally appeared on this 17th day of December, W. E. Spatig, Assistant Secretary of The Lehigh Coal and Navigation Company, who being duly affirmed according to law, did depose and say that the above statement is just and true to the best of his knowledge, information and belief.

W. E. SPATIG.

Affirmed and subscribed before me the day and year aforesaid.

WILSON A. GETZ,

Notary Public, Northampton County.
My Commission expires January 7, 1959.

CITY OF PHILADELPHIA

BOARD OF DIRECTORS OF CITY TRUSTS

W. Henry Gillam, Jr.
General Manager

Blackwell Newhall
Assistant General Manager

Stephen Girard Building
21 South Twelfth Street
Philadelphia 7, Pa.

LOcust 8-0440

June 18, 1956

To the Chief Clerk of the Pennsylvania House of Representatives, Harrisburg, Pennsylvania.

Dear Sirs:

As specifically provided in Clause XXIV, Item 3, of the Will of the late Stephen Girard, the Board of Directors of City Trusts acting for the City of Philadelphia renders herewith to the Legislature of the Commonwealth of Pennsylvania, a detailed account for the year 1955 of the Estate devised to the City of Philadelphia, in trust, and the investment and application of the same, and a report in like manner of the state of Girard College, a duplicate copy of which has been rendered to the Senate of Pennsylvania.

Very respectfully yours,

W. H. GILLAM, JR.,
by ENC General Manager.

REPORT OF THE BOARD OF DIRECTORS OF CITY TRUSTS

TO THE LEGISLATURE OF THE COMMONWEALTH OF PENNSYLVANIA FOR 1955

June 18, 1956.

To the General Assembly of the Commonwealth of Pennsylvania.

Gentlemen:

In accordance with Clause XXIV, Item 3, of the Will of Stephen Girard, the City of Philadelphia, acting by the Board of Directors of City Trusts, herewith submits a detailed account concerning the devised and bequeathed estate of Stephen Girard, deceased, with the investments and application of the same, together with a report of the state of Girard College, for the year 1955.

The principal of the Residuary Fund for the maintenance of Girard College amounted on December 31, 1955 to $71,005,663.02, exclusive of the value of real estate devised and still held, or $442,184.19 more than at the end of the year 1954.

The total ordinary expenditures for the support and maintenance of Girard College amounted to $2,056,478.29, or $87,834.53 less than for the year 1954. The average number of students maintained was 1,094 and the cost of maintenance per capita $1,879.78, or $26.44 more than for the year 1954.

Total student enrollment, January 1, 1955 ..	1,140	
Student admitted during the year	75	1,215
Indentures cancelled	134	
Students leaving at eighteen years of age	28	162
Total student enrollment, December 31, 1955		1,053

The year 1955 was marked by a considerable change in the administration of Girard College. In addition to a new President, Dr. E. Newbold Cooper, and Vice-President, Mr. Karl R. Friedmann, who also acts as Director of Secondary Education, Mr. Malcolm J. Nicholson was appointed Director of Elementary Education and Mr. Ernest L. Ogden, Jr., Assistant Director on May 1, 1955.

Mr. John C. Hayward, Director of the Office of Admissions and Student Relations, resigned September 1, 1955 to accept a position as Dean of Student Affairs at Bucknell University. He was succeeded by Mr. Emil Zarella, an alumnus, who was graduated in 1924, and who had been serving as Associate Director of Secondary Education. Two resident masters, Mr. Charles T. Cunningham and Mr. Lauris R. Wilson, were assigned part-time administrative duties to handle the work formerly carried by Mr. Zarella.

Under this reorganized leadership, Girard College continued to function smoothly. There was incresed emphasis on scholarship and a pleasing growth in the length of the honor roll. Forty percent of the Class of 1955 are

enrolled in some institution of higher learning. The Social program, Student Center, the Student Councils, and intra and extramural athletics operated effectively. The last mentioned included 163 games played with neighboring public, parochial, and private schools, of which contests the College won 64%.

Physical improvements were largely of a maintenance nature. A new public address system, for instance, was installed in the Chapel, and the front portion of Lafayette Hall was completely rewired. The compressor for the water cooling system in the House Group was overhauled and a new drinking water system installed in the Junior School. Extensive repairs to the campus lighting system were necessary, which included replacing some of the original cables and a number of worn parts. The roadway to the north of the Infirmary was widened to improve parking facilities there.

During the year death removed Mr. Frank D. Witherbee, retired Superintendent of Admission and Discharge. Three teachers with long terms of service retired, Mr. John F. Barrett, 37 years, Miss Sara J. Ramsay, 41 years, and Miss Mary L. Smythe. 28 years.

The year might be characterized as one of quiet progress both in the academic field and in the area of physical improvements. The morale of all members of the Girard family continued at a satisfactory level.

The receipts from the property of the Girard Estate within the City of Philadelphia were as follows:

	Gross	Net
For the year 1955	$1,603,601.06	$464,873.40

The transactions for the year 1955 from the property of the Girard Esate Without the City of Philadelphia were as follows:

Gross receipts	$467,649.54
Taxes and other expenses	333,569.95
	$134,079.59
Extraordinary expenditures	65,913.58
Net receipts	$ 68,166.01

During the year 1955 the sum of $60,544.78 was set aside for possible permanent improvements and capital investments by colliery lessees, but it is not expected that any part thereof will be expended.

The amount invested on December 31, 1955 in bonds, preferred and common stocks, and mortgages for the Residuary Fund totaled $62,525,839.63, or $1,507,568.53 less than in 1954, and the income therefrom amounted to $2,030,132.88.

The Fire Insurance Fund has assets amounting to $335,701.16. The risks being carried amount to $761,347, of which $89,250 has been re-insured. The fund suffered losses amounting to $61.15 during the year 1955.

From the Fund for the Improvement of the Eastern Front of the City, the expense of lighting the district lying between Vine and South Streets, Front Street and the Delaware River, together with minor items incident thereto, has been paid in the amount of $5,499.23.

The shipment of coal from the Girard Estate during the year 1955 was 680,560.65 gross tons, a decrease as compared with 1954 of 82,434.10 gross tons, or 10.80%. The shipment was made up as follows:

	Tons
Shipped to market—Fresh mined ..	601,538.95
Bank coal	79,021.70
	680,560.65

The total shipment from the region for the year 1955 as reported by the Pennsylvania Department of Mines was 22,434,250 gross tons, a decrease of 1,326,742 gross tons, or 5.58% as compared with 23,760,992 gross tons for 1954. The Girard Estate's proportion of the regional shipments was 3.03% as compared with 3.21% in 1954.

During the ninety-three years of active mining on the Girard Estate, there have been marketed from it 141,-675,986.30 tons.

The coal leases at the end of the year were seventeen in number, six more than at the end of 1954.

Under the provisions of Clause IV of the Will, the sum of $235.56 was expended in the purchase of books for schools in the first section of the first school district of Pennsylvania.

The sum of $120.96 was expended in the purchase and distribution of fuel (coal) in accordance with the provisions of Clause V of the Will.

On behalf of the Board of Directors of City Trusts

JOHN REINARD,
President.

GIRARD ESTATE

RESIDUARY FUND FOR THE MAINTENANCE OF GIRARD COLLEGE

PRINCIPAL ACCOUNTS

FOR THE YEAR ENDED DECEMBER 31, 1955

PERSONAL ESTATE

Balance, January 1 and December 31, 1955, excluding balance in the gain and loss account		$43,495,246.66
Add balance in gain and loss account, December 31, 1955, as shown on page A-4, temporarily included in principal		4,547,956.69
Balance, December 31, 1955, including balance in gain and loss account, composed as shown on page A-2 ..		$58,043,203.35

REAL ESTATE

Balance, January 1, 1955		$22,410,830.29
Increases:		
Real estate without the City:		
Net rents and royalties from collieries ..	$407,601.92	
Release of amounts set aside for permanent improvements due to termination of leases	456,533.09	
Other receipts	60,047.62	924,182.63
Real estate within the City:		
Net consideration from sales of real estate in South Philadelphia		87,475.06
Forward		$23,422,487.98
Decreases.		
Real estate without the City:		
Taxes and other expenses	$333,569.95	
Protection and maintenance of Hammond Colliery, etc.	65,913.58	
Set aside for improvements to collieries	60,544.78	460,028.31
Balance, December 31, 1955, composed as shown on page A-3		$22,962,459.67

COMPOSITION OF BALANCES OF PRINCIPAL OF PERSONAL ESTATE AND OF REAL ESTATE, DECEMBER 31, 1955

PERSONAL ESTATE

Bonds, at cost less required amortization of premiums:	
United States Government (Par value $19,501,500) ..	$19,588,060.71
Corporate (Par value $26,649,000)	27,141,161.72

Cumulative preferred stocks, at cost		4,934,605.40
Common stocks, at cost		5,124,662.20
Bonds and mortgages on real estate, at cost		5,737,349.60
Real estate acquired by foreclosure proceedings, at cost		3,980,659.88
		$66,506,499.51
Advanced to income account for improvements to buildings		2,500,000.00
Cash in bank		187,645.61
		$69,194,145.12
Less advanced from principal of real estate for investment		21,150,941.77
*Balance of principal of personal estate		$48,043,203.35

*Includes $4,547,956.69 balance in gain and loss account.

REAL ESTATE

Coal lands and other lands in Schuylkill and Columbia counties, acquired since January 1, 1928, at cost		$ 87,999.50
Improvements to real estate in Philadelphia (paid from principal), at cost, less $2,175,603.46, provision for obsolescence		1,863,600.28
Mining Engineer's working fund		11,000.00
		$ 1,962,599.78
Less amounts set aside from royalties for permanent improvements		151,081.88
		$ 1,811,517.90
Advanced to principal of personal estate for investment		21,150,941.77
Balance of principal of real estate		$22,962,459.67

*Exclusive of $861,733.35 estimated obsolescence for which provision has been deferred.

Gain and Loss Account

Balance, January 1, 1955		$4,657,401.88
Increases:		
Gains on sales of real estate acquired by foreclosure proceedings	$ 17,604.02	
Gains on sales of stocks, net of losses	2,961.27	20,565.29
		$4,677,961.17
Decreases:		
Losses on sales and redemptions of bonds, net of gains	$105,720.91	
Loss on loan to Hammond Coal Company	24,289.57	130,010.48
Balance, December 31, 1955, included in balance of principal (page A-1)		$4,547,956.69

Note: The gains and losses on investments are required by the Court to be carried in a running gain and loss account; if, at the end of any year there is a balance in the account, it is temporarily added to principal; if a deficit, it is temporarily reimbursed from income.

INCOME ACCOUNT

FOR THE YEAR ENDED DECEMBER 31, 1955

Income from securities:			
Interest on bonds		$1,325,102.39	
Dividends on stocks		453,869.83	
Income from mortages		251,160.66	$2,030,132.88
Rents, etc., received from real estate within the City		$1,603,601.06	
Less:			
Taxes	$455,604.09		
Salaries and wages	127,602.66		
Real estate administration	59,737.87		
Repairs	85,260.25		
Fuel, electricity and steam	76,808.99		
Other expenses	107,676.45		
Depreciation of improvements to real estate set aside in reserve for obsolescence	38,413.56		
Amortization of improvements to buildings and for tenants	187,623.79	1,138,727.66	464,873.40
			$2,495,006.28
Less:			
Administration and general expenses		$ 365,875.87	
Payment to Retirement Fund on account of past service costs		300,000.00	665,875.87
Income Transferred to Distribution Account			$1,829,130.41

DISTRIBUTION ACCOUNT

Balance of income undistributed, January 1, 1955		$1,972,216.03
Transferred from income account		1,829,130.41
		$3,801,346.44
Distribution to Girard College:		
For support and maintenance:		
Household	$1,209,280.02	
Instruction	696,303.84	
Admissions and student relations	35,524.61	
Social security taxes	25,450.72	
Retirement Fund payment	89,919.00	
Extraordinary repairs and replacements	6,590.23	
	$2,063,068.52	
Less sale of waste material, etc.	7,560.13	2,055,508.39
Balance of income undistributed, December 31, 1955, composed as shown on page A-7		$1,745,838.05

COMPOSITION OF BALANCE OF INCOME UNDISTRIBUTED DECEMBER 31, 1955

Cash in bank		*$ 350,306.57
Improvements to buildings:		
Stephen Girard Building, less $144,180.66 amortization	$1,297,626.11	
1100-42 Market Street (Snellenburg's)	2,876,537.43	4,174,163.54
Improvements for tenants, at cost less amortization	$1,125,192.45	361,367.94
General Manager's working fund	$ 185,000.00	
Accounts Payable revolving fund	175,000.00	360,000.00
		$5,245,838.05
Less:		
Advanced from principal of personal estate	$2,500,000.00	
Amount set aside as General Income Reserve	1,000,000.00	3,500,000.00
Balance of income undistributed		$1,745,838.05

* In addition to this cash balance, the Board holds in escrow in a separate bank account $12,751.31 for payment of taxes, insurance, etc., representing funds collected from owners of properties on which the Board holds mortgages belonging to this fund.

GIRARD ESTATE, FIRE INSURANCE FUND

Created in 1892 from Residuary Fund Income to carry a selected portion of the fire risks of the Girard Estate

ACCOUNTS FOR THE YEAR ENDED DECEMBER 31, 1955

Balance, January 1, 1955		$ 327,617.63
Increases:		
Income from invested funds	$ 8,292.15	
Annual insurance premiums received	861.36	9,153.51
		$ 336,771.14
Decreases:		
Administration expenses	$ 1,008.83	
Losses paid on automobile insurance	61.15	1,069.98
Balance, December 31, 1955		$ 335,701.16

Balance, December 31, 1955, composed as follows:

Bonds, at cost less required amortization of premiums:	
$163,500 United States Treasury 2¼'s, due 6/15/62-59	$166,148.07
83,500 United States Treasury 2½'s, due 6/15/69-64	83,575.45
55,500 United States Treasury 2½'s, due 12/15/69-54	55,501.98
Common stocks, at cost:	
100 shs. Girard Trust Corn Exchange Bank	7,025.00
40 shs. Insurance Company of North America	4,286.76
400 shs. Philadelphia Electric Company	12,561.54
Deposits on perpetual insurance policies	1,934.00
Cash in bank	4,668.36
	$335,701.16

GIRARD ESTATE

Fund for the Improvement of the Delaware Front of the City, Removal of Wooden Bridges, Etc.

(Delaware Avenue Fund)

PRINCIPAL ACCOUNT

FOR THE YEAR ENDED DECEMBER 31, 1955

Balance, January 1 and December 31, 1955		$ 500,000.00
Balance, December 31, 1955, composed as follows:		
Bonds, at cost less required amortization of premiums:		
United States Government (Par value $238,100)	$238,188.70	
Corporate (Par value $25,000)	25,644.47	
Cumulative preferred stocks, at cost	19,902.49	
Common stocks, at cost	3,431.80	
Real estate acquired by foreclosure preceedings, at cost	212,073.94	
	$499,241.40	
Cash in bank	758.60	
	$500,000.00	

GAIN AND LOSS ACCOUNT

FOR THE YEAR ENDING DECEMBER 31, 1955

Deficit, January 1 and December 31, 1955	$ 391.35
Temporary reimbursement of deficit from income	391.35

INCOME ACCOUNT

FOR THE YEAR ENDED DECEMBER 31, 1955

Income from investments:		
Interest on bonds	$ 6,611.25	
Dividends on stocks	978.04	
Rents from real estate	21,176.66	
	$ 28,765.95	
Other income	89.00	$ 28,854.95
Less:		
Real estate expenses	$ 18,553.17	
Administration expenses	1,575.17	20,128.34
Net income for the year		$ 8,726.61

DISTRIBUTION ACCOUNT

FOR THE YEAR ENDED DECEMBER 31, 1955

Balance of income undistributed, January 1, 1955, net of $391.35, temporary reimbursement of the deficit in the gain and loss account as shown on page A-9	$ 7,647.74
Net income for the year, as above	8,726.61
	$ 16,374.35
Expenses of lighting, etc., on the Delaware Front of the City	5,499.23
Balance of income undistributed, December 31, 1955, cash in bank	$ 10,875.12

STEPHEN GIRARD SCHOOL FUND

"For the use of the schools upon the Lancaster system, in the first section of the first school district of Pennsylvania."

ACCOUNTS FOR THE YEAR ENDED DECEMBER 31, 1955

PRINCIPAL ACCOUNT

Balance, January 1 and December 31, 1955		$ 12,277.97
Balance, December 31, 1955, composed as follows:		
1,277 units, Collective Legal Investment Fund, at cost	$ 12,270.00	
Cash in bank	7.97	
	$ 12,277.97	

INCOME ACCOUNT

Income from invested funds	$ 395.75
Less administration expenses	41.57
Net income for the year	$ 354.18

DISTRIBUTION ACCOUNT

Balance of income undistributed, January 1, 1955	$ 279.46
Net income for the year, as above	354.18
	$ 633.64
Supplies for public schools	235.56
Balance of income undistributed, December 31, 1955, cash in bank	$ 398.08

STEPHEN GIRARD FUEL FUND

Income "to purchase fuel between the months of March and August in every year forever, and in the month of January in every year forever distribute the same, amongst poor white housekeepers and roomkeepers, of good character, residing in the (old) city of Philadelphia."

ACCOUNTS FOR THE YEAR ENDED DECEMBER 31, 1955

PRINCIPAL ACCOUNT

Balance, January 1 and December 31, 1955		$ 10,207.47
Balance, December 31, 1955, composed as follows:		
1,018 units, Collective Legal Investment Fund, at cost	$ 10,200.77	
Cash in bank	6.70	
	$ 10,207.47	

INCOME ACCOUNT

Balance from invested funds	$ 328.35
Less administration expenses	34.56
Net income for the year	$ 293.79

DISTRIBUTION ACCOUNT

Balance of income undistributed, January 1, 1955	$ 1,084.45
Net income for the year, as above	293.79
	$ 1,378.24
Fuel distributed to the poor	120.96
Balance of income undistributed, December 31, 1935, cash in bank	$ 1,257.28

REPORT

HOUSE OF REPRESENTATIVES

Committee to Investigate Methods Used by the State Board of Medical Education and Licensure With Respect to the Acceptance For Interneship of Graduates of Foreign Medical Schools.

AS Directed Under
HOUSE RESOLUTION No. 131
Legislative Session 1955-56

MARY A. VARALLO, Chairman.

HOUSE OF REPRESENTATIVES

Committee Members

Mary A. Varallo ..... Chairman
Herman Toll, Attorney ..... Secretary
George J. Sarraf, Physician ..... Allegheny
J. Warren Bullen, Jr., Executive .... Delaware
Stanley G. Stroup, Attorney ..... Bedford

REPORT

COMMITTEE TO INVESTIGATE METHODS USED BY THE STATE BOARD OF MEDICAL EDUCATION AND LICENSURE WITH RESPECT TO THE ACCEPTANCE FOR INTERNSHIP OF GRADUATES OF FOREIGN MEDICAL SCHOOLS.

HOUSE OF REPRESENTATIVES

Pursuant to

RESOLUTION NO. 131

This report of the House Committee to investigate the method of the State Board of Medical Education and Licensure with respect to the acceptance for internship

for graduates of foreign medical schools sets forth the findings and recommendations of the Committee acting under House Resolution No. 131, adopted by the House of Representatives on March 26, 1956.

Resolution Number 131 empowers this Committee to conduct a thorough inquiry into the manner in which the State Board of Medical Education and Licensure grants or denies certificates of internship to applicants who are graduates of foreign medical schools. Since interneship within an approved hospital of this Commonwealth is a pre-requisite to admission to the Board's licensing examinations, this investigation in effect encompasses fundamental procedures employed by the Board in processing applications for medical licensure submitted by graduates of foreign medical schools. Recognizing that a denial of a certificate of interneship is tantamount to total exclusion from medical practice within this State, this Committee was obliged to study the total policies of the State Board of Medical Education and Licensure as they pertain to the licensing of these graduates. The Committee was authorized to hold hearings and to inspect records and documents in carrying out this investigation.

At the organization meeting of the Committee on June 7, 1956, the existing situation was reviewed and because of the controversial nature of the issues involved, the Committee decided to conduct two full-scale hearings, the first dealing soley with the presentation of the complaints by the individuals aggrieved by the present policies of the State Board of Medical Education and Licensure, and the second to afford the Board of Medical Education and Licensure a full opportunity to explain those policies and state its views of the problem.

Both hearings were conducted in the new House Caucus Room; full stenographic notes were kept and are attached to this report.

The first hearing was held on July 26, 1956 At this time the Committee invited the Justinian Society of Philadelphia, a legal organization whose members had offered their services to any individuals presenting issues involving the State Board of Medical Education and Licensure, to attend together with those doctors whom it represented. At this hearing the Chairman and three Committee members were present, attorneys for the Justinian Society, and their respective clients.

Both doctors appearing at this hearing are American citizens, residents of Pennsylvania and had completed their entire pre-medical studies within local educational institutions. Each had, for varying reasons, pursued a full course of medical studies at the University of Rome. Upon their return to this State, they encountered an intransigent refusal on the part of the Board of Medical Education and Licensure to permit them to intern within Pennsylvania hospitals, to compete in the Board's medical licensure examinations, and, of course, to practice medicine lawfully within this Commonwealth. Counsel for the applicants stated of record that three other individuals with similar experiences were unable to appear before the Committee on that date. In addition, the Chairman received a communication from a former Member of the House that another similarly aggrieved doctor of his acquaintance could not be presented for the reason that he was being inducted into military service.

Both doctors described the course of study pursued at the University of Rome. The curriculum extends throughout six years, divided into two-year units termed "biennials." They testified that in the middle of the second biennial, i.e., after three years of study, they participate fully in the various clinics and hospitals affiliated with the University of Rome. The doctors stated that the hospital wards with which they were affiliated contained about eighty patients who were seen daily. The method of study was described as that carried throughout the Continent, known as the "scholastic method of study" where the individual, instead of being compelled to take required examinations at the end of the year, may instead to place himself under examination at one of three examining sessions.

One of the complaintants who graduated from the University of Rome in 1955 stated that four of his classmates were residents of Pennsylvania, and that, to his knowledge, none of these had been permitted to intern in Pennsylvania. In addition, he informed the Committee that about 17 or 18 students from Luzerne, Philadelphia, Delaware and Allegheny counties will be graduating this year, and, under the present ruling of the Board, will of course be ineligible to interneships in Pennsylvania.

The entire curriculum presented at the University of Rome was read into the record, and is affixed separately (Vide, Exhibit A) to this report. One of the petitioners had attended Jefferson Medical College in Philadelphia prior to his attendance at the University of Rome, and was presently participating in a three-year-post-graduate course at the University of Pennsylvania Medical School. In his opinion, the course of studies pursued at the University of Rome was comparable to that followed in American medical schools, and, in some instances, more emphasis was placed upon certain basic sciences, these courses extending for two years instead of one.

One petitioner testified that he was presently serving a rotating interneship in a Camden hospital. He stated that the New Jersey Board of Medical Licensure accords full recognition to the diploma granted by the University of Rome, and regularly permits these graduates to intern within New Jersey hospitals. Ultimately he will take the medical examinations in New Jersey, but added that if he is successful, the New Jersey license will not permit him to receive reciprocal certificate from the Pennsylvania Board of Medical Education and Licensure, despite the fact that the interneship which he is presently serving meets all the requirements set down by the Pennsylvania Board. He explained that despite his status in New Jersey, the Pennsylvania Board will maintain its present ostracism of the University of Rome graduates, and cited several instances where this situation presently obtained. Thus, despite the fact that he is a resident of Pennsylvania, if he wishes to engage in medical practice, he must change his domicile to New Jersey. This doctor also stated that he may intern in New York, since the New York Board of Medical Education and Licensure. after a tour of inspection of the Italian schools in 1949, admits to practice all qualified graduates of the University of Rome.

Counsel read into the record a letter received by one of the petitioners who applied in November, 1954 for a certificate of interneship by the Pennsylvania Board of

Medical Education and Licensure. This letter, signed by Charles L. Shafer, M. D., Chairman, State Board of Medical Education and Licensure, informed the applicant that he was in error about his right to serve an internship in a Pennsylvania hospital and his eligibility for a Pennsylvania license. Without elucidating any of the grounds for the Board's position, the letter stated flatly that "no graduates of the University of Rome Medical School who matriculated after 1941 have the right to be serving an interneship in any Pennsylvania hospital. Such a graduate is not eligible for Pennsylvania examinations." (Vide, Notes, July 26, 1956, pp. 17-18.)

After considering this testimony, the Committee was of the opinion that the bedrock issue emerging was that of ascertaining precisely why the Pennsylvania Board of Medical Education and Licensure has not seen fit to recognize the qualifications of the University of Rome medical school.

Before closing this hearing, the Committe invited counsel for the applicants to summarize the entire situation and to present further argument on behalf of the petitioners.

In summing up, counsel stated that the Board of Medical Education and Licensure, as one of fifteen such administrative bodies within the Department of Public Instruction, is charged by law with the duty of determining the professional status of the various medical schools whose graduates seek licenses to engage in the practice of medicine within this Commonwealth. In carrying out this task, the Board may not act according to caprice, but is governed by the practices and procedures defined by the Legislature in the Medical Practice Act of 1911. This Act states that it shall be the duty of the Board, "by inspection and otherwise, to ascertain the facilities and qualifications of medical institutions, colleges, or hospitals outside this Comomnwealth, whose gradutes or internes desire to obtain medical licensure in this state." Despite the fact that the Board of Medical Education and Licensue has neither inspected this school nor issued any statement of findings concerning its merit, it has characterized the school as "substandard" and refused licenses to all its graduates since 1941. Its responses to repeated queries have been couched in broad and vague generalization, composed in the main of hearsay statements, whose sources remain obscure.

Counsel stressed the point that at no time had the American Medical Association issued a clear-cut rejection of the professional status of the medical school of the University of Rome. Despite the fact that the American Medical Association's Council on Medical Education did not include any Italian medical schools on its list of recommended foreign institutions, it noted clearly that this document was offered "as an advisory list for the use of any agency or organization that finds it helpful. The position of the Council with respect to schools not named in this list is that they neither approve nor disapprove of them. The credentials of graduates of schools not listed must be evaluated by those other agencies, organizations or institutions to who graduates of the institution apply for recognition."

Twenty-four of the thirty-six State Boards regulating medical licensure in accordance with standards acceptable to the American Medical Association have followed the specific mandate not to be bound by this list and routinely qualify graduates of foreign medical schools not included therein. These states comprise the strongest and most progressive administrations and represent large population aggregates throughout the Union. Pennsylvania's nearest neighbors, Delaware, Ohio, New Jersey, and New York do not deem the University of Rome a "substandard" medical institution; the Boards of Medical Education and Licensure in these States have not embraced the unofficial A.M.A. listing as a final and irrevocable judgment which precludes any furthr fact-finding on their part. Thus, the petitioners appearing before the Committee find themselves in a situation which demands that they change their legal residence if they wish to engage in the profession to which they have dedicated their lives, their fortunes, and their manifest destinies.

On September 13, 1956, in the new House Caucus Room, the Committee met with members of the Pennsylvania Board of Medical Education and Licensure. Present also at this time were counsel for the doctors aggrieved by the present stand of the Board. Dr. Charles L. Shafer, Chairman of the Board, introduced to the Committee Drs. Elmer Hess, Leslie Richards, and Raymond Leopold, and Elmer T. Bolla, Esq., Deputy Attorney-General assigned to advise the Board. Not present but listed for the record were Dr. C. L. Wilbar, Deputy Secretary of Heatlh who represents Dr. Mattison, Secretary of Health on the Board, and Mr. D. E. Crosley, Deputy Secretary of Public Instruction, the representative of the Superintendent of Public Instruction.

In introducing the members of the Board of Medical Education and Licensure to the Committee Dr. Shafer described their long terms of appointment, in all cases extending over twelve or fourteen years. As Chairman, Dr. Shafer was the first witness to speak before the Committee on the issue of the Board's rejection of foreign medical graduates. Dr. Shafer viewed the duties of the Board as primarily those of maintaining high educational standards for medical graduates; he described the changing medical education scene in the United States throughout the first half the twentieth century. With respect to foreign medical schools he stated initially that the Board recognizes only those foreign schools listed by the Council on Medical Education of the American Medical Association, but in direct reply to a querry of the Committee admitted that the Board is "not wholly" guided by the policies set down by the American Medical Association.

Dr. Shafer stated that prior to 1941 graduates of the University of Rome were freely admitted to licensure in the Commonwealth of Pennsylvania, and that there are many such medical practitioners throughout the State today. When asked by the Committee to explain the basis for the changed policies of the Board in the postwar era, Dr. Shafer replied in general terms that "there has been a deterioration," and that the medical education is "not up to our standard." Dr. Shafer stated that he had never personally inspected the shools, nor had the Board done so, but that he considered them, nevertheless, inferior and incapable of satisfying the Board's requirements. This latter judgment, he declared, was based in part on the American Medical Association's list, and on the opinion of "private individual's." Dr. Shafer stated that one member of the Board. Rr. Raymond Leopold, had

visited recently in Italy, but upon interrogation by the Committee, Dr. Leopold stated that he had last visited the University of Rome Medical School in 1938. (Vide, Notes of Testimony, September 13, 1956, p. 52).

The next member of the Board to testify was Dr. Elmer Hess who stated that he felt the foremost concern of the Board should be for American citizens. When the Committee informed him that their concern was solely with the case of the American citizen who had completed his medical education abroad, Dr. Hess stated that he felt that any student who did not gain admission into an American medical school was deficient in some area which he could not define. He stated, "There's something lacking in the boy if he doesn't get into an American medical school. There isn't any question about it. Now what is lacking, I don't know." (Notes of Testimony, p. 16).

Replying to the Committee's interrogation concerning the Board's pre-1941 policy of complete recognition of these schools, Dr. Hess stated that he was not familiar with the techniques then employed by the Board for ascertaining the professional status of these foreign medical schools.

Both Drs. Hess and Shafer stated that graduates of such foreign medical schools, despite their admission to medical licensure in other states, would not be granted reciprocal endorsement by the Pennsylvania Board of Medical Education and Licensure. When questioned by the Committee as to their view of the fairness of this situation, both doctors expressed the position that their stand was in compliance with "the law."

The Committee called upon the Deputy Attorney-General, Mr. Bolla, for elucidation of the relevant provisions of the Medical Practice Act, requiring that the Board shall "by inspection and otherwise" ascertain the facilities and qualifications of these schools. Mr. Bolla stated that he knew of no decision, no written opinion by the Attorney-General, nor of any informal memorandum upon this point. It was pointed out that no funds were provided by the statute for purposes of inspection. However, the State Bureau of Accounts showed that the surplus of over $50,000.00 was returned to the State Treasury by the Board as excess of receipts over expenditures.

The Committee was informed by Dr. Hess that the Board of Medical Education and Licensure regularly issues post-graduate certificates to non-citizens who have graduated from these schools, but who intend to return to their native countries after completing their necessary training period. This procedure is in fulfillment of the cultural exchange educational program established by the Congress and administered by the State Department. The Board does not, however, consider this limited acceptance of foreign graduates as a ground for admission of American citizen graduates to medical licensure. In effect, the Board displays greater latitude toward visiting alien physicians than it does toward those graduates who are American citizens and residents of this Commonwealth.

The Committee attempted to learn from Dr. Leopold, described by Dr. Shafer as the Board member most expert in this area, the quality and nature of foreign medical training centers. Although Dr. Leopold's last visit to Italian medical school was in 1938, he believed that there had been little improvement or change. He characterized the educational methods and concepts of European schools as static and definitely inferior to the present educational program of American Institutions, In particular he gave a detailed account of the practices he encountered in Switzerland, but, in view of the fact that Swiss graduates are recognized by the Board, his testimony did not provide great assistance to the Committee. Furthermore, the schools he visited in 1938 were then regularly approved by the Board who did not then deem Italian faculties to be "sub-standard." His remarks were of historical, or, at best, anecdotal interest.Dr. Leopold, together with every other member of the board present, manifested a definite judgment of the superiority of American medical schools and the inferior standing of the European in general, but could not justify to the Committee the Board's continuing denigration of Italian medical faculties.

The Committe sought to ascertain what solution the Board could offer in connection with the problem. Dr. Leslie Richards, a Board member who had been in attendance at meetings of the Federation of State Board of Medical Licensure, a national Group, described plans now in evolution for establishing a definite system for evaluating foreign medical gradutes, both citizens and non-citizens. At the June, 1956 meeting, an eight-man committee, consisting of two representatives from the American Council of Medical Education, two from the American Hospital Association, two from the Federation of State Boards of the United States, and two from the Association of American Medical Colleges, was appointed and designated as the "Evaluating Committee," charged with the responsibility of evaluating all applicants seeking medical licensure who are graduates of foreign medical schools.

This Evaluating Committee is seeking necessary funds from private foundations to carry out this charge. Dr. Richards could not present a definite commitment to the Committee concerning the time-schedule under which such evaluation would operate, but hinted that some step would be taken by February, 1957, with respect to those graduates presently in the United States. These men would have the opportunity to appear before the Evaluating Committee and be examined as to their credentials. Therefore, the Evaluating Committee, in the event of approval, will issue certificates which may then be presented to the various State Boards.

The legal status of recommendations made by such an Evaluating Committee was raised by several members of the committee through queries both to Dr. Richards and Mr. Bolla. Apparently, Mr. Bolla prepared a report for the Governor's office on this matter, but stated no definite or official opinion upon this question could be made until the Evaluating Committee issued a complete program of its operations and procedures. Mr. Bolla further stated that he was not prepared to state whether the inspection requirements of the Medical Practice Act of 1911 would be met by this proposed arrangement.

Dr. Richards further stated that the list of recommended foreign medical schools published by the American Medical Association in 1954 has been rejected by the Federation of State Boards, and that the Evaluating Committee would not consider itself bound by that declaration.

In response to an observation by the Chairman of

the Committee, Mrs. Varallo, that the idea of an Evaluating Committee is of recent origin, Dr. Richards stated that this project has been in progress for two years, and that the present organizational proposal was the result of those labours.

Much testimony was presented to the Committee concerning examination results in those states who admit foreign graduates to licensure. It was pointed out that a large percentage of these candidates fail to pass the examinations established by these Boards. These statistics, however, do not distinguish between applicants whose pre-medical training was undertaken in American schools and those who are immigrants. The figures offered do not disclose the percentage of successful or failing applicants who are American citizens who have medicine abroad, the sole category of applicant considered by this Committee. Furthermore, extra-medical factors such as language, familiarity with the style of answer required, and general adeptness in examination-taking are completely ignored by this method of evaluation.

Counsel for the applicant stated that the fact that foreign medical graduates licensed before 1941 were, in the opinion of the Board of Medical Education and Licensure, competent physicians was as significant as any set of statistics which could be conjured up. Furthermore, it was pointed out that the standards utilized by the Board in its present evaluation of foreign medical schools were yet unclear, despite Dr. Shafer's statement that the Board based its policies on the American Medical Association's recommended list. For example, several Asiatic schools were approved, despite the fact that they were excluded from the list. The Board replied that these schools in China and Japan were under the aegis of American educational foundations, and hence met their requirements, but again did not explicate their position, and did not set forth before the Committee these specific requirements. Counsel for the applicants stressed that the present system ignored the individual human right of American citizens to pursue their chosen profession, under the law, and gave these foreign graduates no recourse or consideration upon their individual merits. The Board acknowleged that the present situation did not accord the individual full recognition, but considered that the Evaluating Committee would provide a more humanitarian solution.

Counsel also stressed that the evaluation of individual applicants was one of the responsibilities legally imposed upon the Board of Medical Education and Licensure, and one which could not be delegated to a national, extra-legal voluntary organization not subject to legislative or judicial inquiry within this Commonwealth.

Moreover, the opinon of the Board that the Continental techniques of educational administration were generally inferior, and their broad indictment of all European medical schools were inconsistent with their acceptance of some European graduates, and did not justify their flat rejection of the Italian medical faculties. Despite the fact that this anomalous situation had existed in the Commonwealth for the past ten years, the Board of Medical Education and Licensure had not formulated any interim solution, but had only recently associated itself with the proposal for the establishment of a national evaluation program, which in itself, was yet in a planning stage of development. A further problem arose because there was no assurance, either in law or in reality, that the Board would admit to licensure a foreign medical graduate certified by the Evaluating Committee. In view of the Board's rejection of the standards maintained at these foreign faculties, it would not be inconceivable that despite the necessary certificate, applicants would in the future be disqualified merely on the basis of their medical school affiliation. Thus, counsel pointed out to the Committee that the proposal for an Evaluating Committee did not squarely confront the issue of any possible future continuation by the Board of its present policy.

This Committee was concerned primarily with the issue of any possible discrimination evidenced by the manner in which the Board discharges its legal duty of evaluating and qualifying for licensure graduates of foreign medical schools who are American citizens and bona fide resident of this Commonwealth. Recognizing the complexity and difference in governmental policy involved in the problem of those graduates who are not American citizens, the Committee made no inquiry into either their status or the standards and policies employed in evaluating their applications. The focus was oriented solely to the pattern characterized by the applicant who testified at the first hearing: the American boy, a resident of Pennsylvania, rooted by ties of family and association in this Commonwealth, who for varying reasons completed his medical education abroad, received a diploma and perhaps a license in that European country, who, upon returning to Pennsylvania, encounters a door irrevocably closed to him as he seeks to enter the medical fraternity of Pennsylvania.

What forces closed this door, and for what reason, rational or otherwise, and for what motives? These were the queries which beset the Committee and which it sought to answer throughout the course of its work.

Until the outbreak of World War II, up to 1941 precisely, graduates of foreign medical schools, and specifically, the University of Rome, were freely admitted to internship and examination in Pennsylvania. The committee took notice of the fact that a large number of registered physicians in this Commonwealth are graduates of foreign medical schools, and that some of them occupy significant hospital and community positions. After this mark-off date for the duration of the war, no problem existed with respect to the termination of recognition of these schools, for the obvious reason that in a world at war intercourse and cultural exchange were non-existent. After 1946, however, and particularly in the later postwar period, the situation became more acute. The practice of studying abroad again became part of the privilege of American youth, and indeed, the American government undertook vast and costly programs to promote closer intercultural ties and to foster this intellectual cross fertilization. During this period in the early and mid-fifties, a small but increasing number of Pennsylvanians undertook a full course of medical studies abroad, graduated, and returned to Pennsylvania with necessary and proper credentials. The Board of Medical Education and Licensure informed them that under Pennsylvania law no graduate of the University of Rome Medical School who had received his diploma after 1941 was eligible to intern in Pennsylvania hospitals or compete in the licensure examination.

During this period the Board did not inspect these foreign medical schools as required by the Medical Practice Act of 1911. Their alternative techniques of fact-finding were vague and uncertain. They igored the report issued by the New York State Board of Medical Licensure after a complete inspection tour in 1949, recommending the approval upon sound grounds of some of the Italian Medical Schools, including the University of Rome, and preferred to continue their method based on reports of private individuals, unidentified to the Committee, who are characterized as "educators." They could offer no satisfactory explanation for this stand against the New York Report.

Although the Chairman stated that he considered the American Medical Association's List of Recommended Foreign Medical Schools as binding upon him (despite the A.M.A.'s injunction that the list was merely advisory, and that it was the responsibility of local administrative agencies to ascertain the qualifications of these schools not approved and to consider the applicants of these schools on their individual merits), the Board nevertheless accepted applications of graduates of unlisted medical schools in China and Japan, because they knew that American educators "backed" them. Furthemore, any graduates of these foreign schools who became licensed in New York, New Jersey, Connecticut, or in any of the twenty-four states who made independent evaluations approving these schools, were not, and are not, granted reciprocal certificates of licensure.

The Board apparently considers the entire European system of medical education inferior, basing its opinion in some part on the report of one member who testified that he inspected these schools in 1938.

The Committee again and again pressed for a factual explanation of what had occured in these schools in the postwar period, but did not receive information more specific that that of a general "deterioration." In view of the foregoing attitudes, it would appear that the Board of Medical Education and Licensure has arbitrarily rated these institutions as sub-standard.

The concern, however, of this Committee is neither with the abstract philosophical issues of educational methodology, nor with the discussion of value-judgments concerning the merits of one system over another. It is interested in the manner in which the Board has processed applications put to it by residents of this Commonwealth who are graduates of these schools. Beyond a letter of flat rejection, the Board made no attempt to interview the applicant, to determine his qualifications and skill on an individual basis, to do, in short, what a proposed national group presently in the organizational stages wishes to do on a voluntary basis—to evaluate the applicant as such.

There is a question whether the proposed Evaluating Committee is a satisfactory solution to this problem. There can be no assurance that the Board will cooperate with this Committee, but more basically, the opinion of the Attorney-General's office as to the legality of this procedure has not yet been rendered. Counsel for the applicants stated that they believed this to be an unlawful delegation of power by an administrative agency, and contrary to the provisions of the Medical Practice Act of 1911.

The Committee questions the manner in which the Board of Medical Education and Licensure has discharged its obligations under the law. In view of the great medical shortage throughout this Commonwealth, and in the entire nation, it would appear that an enlightened view would tend in the direction of a more liberal policy. Throughout the entire hearing, it did not appear that the Board, other than to endorse the Evaluating Committee, was prepared to revise or modify its present policies.

In view of these considerations, and with due respect to the memebrs of the Board all of whom have served for more than a decade in this capacity, the Committee wishes to conclude its Report with these recommendations to the General Assembly of the Commonwealth of Pennsylvania:

RECOMMENDATION No. 1

This Committee recommends that legislation be enacted requiring the Board to evaluate personally all applicants for medical licensure who are American citizens and residents of this Comonwealth. This Committee further recommends that legislation require the Board, or the Educational Council for the foreign graduates, to admit freely to internship and licensure examinations all applicants who are graduates of medical schools following the terms and policies in states with comparable high standards; and maintain a public list of approved schools in the United States and abroad.

RECOMMENDATION No. 2

This Committee believes that every qualified individual should be granted the opportunity to compete freely and fairly, and recommends legislation requiring the Board to use the examination as the point of disqualification, as is the technique employed in the examination and certification of attorneys.

RECOMMENDATION No 3

This Committee recommends that legislation require the Board to issue reciprocal certificates to those physicians who are licensed to practice in sister-states, and who are graduates of foreign medical schools.

RECOMMENDATION No. 4

This Committee recommends that legislation require the Department of Public Instruction to inspect and evaluate foreign schools whose graduates apply for licenses issued by Pennsylvania professional boards and to furnish said Boards with the reports of such inspection and evaluation.

Respectfully submitted,

March 12, 1957

/s/ Mary A. Varello
Chairman
/s/ Herman Toll
Secretary
/s/ George J. Sarraf
/s/ J. Warren Bullen, Jr.
/s/ Stanley G. Stroup

EXHIBIT "A"

PROGRAM OF ITALIAN MEDICAL SCHOOLS AS EXISTING SINCE 1949

First Biennial: (2 year courses)

Chemistry—Comparative Anatomy—Biology and General Zoology, including Genetics and Human Anatomy. Human Physiology—General Pathology.

Second Biennial:

Pharmacology—Special Medical Pathology and Clinical Methodology (two years)—Special Surgical Pathology and Clinical Medicine (two years)—Anatomy and Pathological Histology (two years)—Otorhinolargyngology (half year).

Third Biennial: Half year = 1 full scholastic year (8 mos.) General Medical Clinic and Medical Therapy (two years)—General Surgical Clinic and Surgical Therapy (two years) Pediatric Clinic—Obstetric and Gynecological Clinic—Hygiene—Legal Medicine and Insurance Medicine—Nervous and Mental Diseases Clinic (half year)—Dermasyphilitic Clinic (one year) —Ophthalmologic Clinic (one year)—Odontological Clinic (one year).

The student must each year take a half-year course in at least two of the complementary subjects here-below listed:

Biological Chemistry—Histology and General Embyology— Micro-Biology— Parasitology— Anthopology —Science of Orthogenesis—Child Care—Physical Diagnostics—Study of Tuberculosis—Tropical and Sub-tropical diseases—Infectious Diseases—Industrial Labor Medicine—Preventive Medicine—Psychology— Criminal Anthropology—Radiology—Medical Hydrology—Orthopoedic Clinic—Urology—Surgical Anatomy—and Practical Surgery—History of Medicine— Technology of Surgical Intervention—Food Science.

All practical trainnig is compulsory. The Complementary course of six months in orthopoedic clinic is compulsory. The six-months course must have at least 25 lessons. After the end of the sixth year the student must serve for six months without interruption in some hospital before passing the final M. D. examination.

Commonwealth of Pennsylvania,

Governor's Office, Harrisburg, Pa., March 12, 1957.

To the Honorable the Members of the General Assembly of the Commonwealth of Pennsylvania:

Inasmuch as education plays such an important part in our budget thinking, it occurred to me that the attached copy of a Report from the Governor's Commission on Higher Education may be of extreme interest to you.

As you probably know, the Commission has been conducting its research for well over a year and has come up with important findings and recommendations. In order that you might study them for yourself, I have asked that a copy be made available to each member of the Legislature.

At the present time these recommendations are receiving full consideration by this Administration. I have said that I think the report can be the basis for meeting the anticipated expanded need for higher education in the Commonwealth.

It is my hope that you will find in the pages of this report a basis for legislatvie action in this field.

Sincerely yours,

GEORGE M. LEADER.

GOVERNOR'S COMMISSION ON HIGHER EDUCATION
COMMONWEALTH OF PENNSYLVANIA

February 15, 1957

The Honorable George M. Leader
Governor of the Commonwealth of Pennsylvania
Harrisburg, Pennsylvania
Dear Governor Leader:

In October, 1955, you requested the undersigned to to serve as a Commission on Higher Education "to survey, analyze and appraise existing or proposed programs of instruction (in Pennsylvania colleges and universities) and State assistance to such programs." Your charge to us reflected your conviction that the Commonwealth "has large although presently unmeasured responsibilites in assisting our colleges and universities to accomplish their mission," and you therefore urged that we exercise a "roving prerogative" in our deliberations.

Acting on that charge, the Commission has addressed itself during the past fifteen months to the basic question of whether and how the Commonwealth should provide opportunities for education beyond the high school for its increasing thousands of college-age men and women.

During the course of its inquiry, the Commission has been guided, first, by recent studies of problems facing higher education conducted on a national level and in a number of other States; second, by Pennsylvania population and enrollment data compiled under the auspices of the State Department of Public Instruction; and, third, by a set of basic principles which, in the Commission's judgment, must undergird the future development of higher education in the Commonwealth. All of the findings and recommendations contained in our Report flow from the confluence of fact and principle formed through intensive research and thorough discussion.

My associates and I deeply appreciate this opportunity to have been of service to the Commonwealth and we stand ready to render whatever additional assistance you believe may be needed in furthering the cause of higher education in Pennsylvania.

Sincerely,

PAUL R. ANDERSON,
For the Commission.

HIGHER EDUCATION IN THE COMMONWEALTH
REPORT OF THE GOVERNOR'S COMMISSION ON HIGHER EDUCATION

Harrisburg, Pennsylvania

February 1, 1957

Members of the Commission:

Paul R. Anderson, Chairman
President, Chatham College

Lawrence E. Dennis, Vice Chairman
Vice President for Academic Affairs
The Pennsylvania State University

D. L. Biemesderfer
President, Millersville State Teachers College

Millard E. Gladfelter
Provost and Vice President, Temple University

Father Francis X. N. McGuire
Director of Development, Villanova University

Roy F. Nichols
Vice Provost and Dean of the Graduate School
University of Pennsylvania

Charles B. Nutting
Director, Buhl Foundation

Ira De A. Reid
Professor of Sociology, Haverford College

Howard R. Reidenbaugh
Secretary of the College, Chatham College

Staff of the Commission:
John H. Ferguson, Co-Secretary
Secretary of Administration
Commonwealth of Pennsylvania

Carl E. Seifert, Co-Secretary
Deputy Superintendent of Public Instruction
Commonwealth of Pennsylvania

Harry M. Pluebell, Research Assistant
Executive Secretary
Pennsylvania Association of Colleges and Universities

I. Introduction: The Task of the Commission

A. Basic Principles and Assumptions

From the national standpoint, the broad dimensions of the challenge facing American colleges and universities are already well known. Two fundamental factors—the steadily increasing birth rate and the growing proportion of college-age youth attending institutions of higher education—are contributing to ever-mounting enrollments.

In October, 1954, the American Association of Collegiate Registrars and Admissions Officers issued a Report entitled "The Impending Tidal Wave of Students." In it the Association called attention to the fact that the population of the United States has doubled in the last fifty years, with the average number of births each year for the past decade more than a million above the average for the ten years immediately preceding.

"The tidal wave of students is sweeping through our elementary schools, approaching the secondary schools, and will engulf our colleges and universities in a few short years," said the Association. "The sheer impact of unprecedented numbers will force us to explore every resource and exert every effort to prepare for their coming . . . a time when we shall be confronted with at least twice our present number of (college and university) students . . . They are already born. We know the time of their coming—we can count them now . . . Educating (them) will be far greater than anything we have been called upon to bear thus far."

But although the tremendous increase in population will greatly swell college enrollments in the years immediately ahead, it is evident that something quite startling is already happening to the size of our collegiate student bodies.

For various economic and social reasons, more and more persons of college age are entering institutions of higher education. During the last fifty years the number of students enrolled in private colleges has multiplied more than seven times, and the number enrolled in public colleges has multiplied seventeen times, while the population has only doubled. Even though a relatively low number of young people reached college age during the past year (as a result of the low birth rate in the thirties), and even though veterans studying under the GI Bill have all but disappeared from college campuses, full-time and part-time enrollments in the fall of 1956, according to the United States Office of Education, reached on all-time high of 2,957,227, an 8.7 per cent increase over 1955—largely in the freshman class. In his most recent annual study of college enrollments, Dr. Raymond Walters, president emeritus of the University of Cincinnati, found that about four out of every ten high school graduates in June, 1956, went on to some type of advanced education, including junior colleges and community colleges.

What has happened to higher education in Pennsylvania since World War II is illustrative of what has happened nationally. Colleges and universities in the Commonwealth were challenged in the post-war period with the largest number of students in history. The peak year in the forties was 1948, when 18.6 per cent of the State's college-age population was enrolled in college. Although in the decade of the fifties there have been fewer persons of college age in Pennsylvania than at any time since World War I, college enrollment figures have not shown a corresponding decrease.

In fact quite the contrary appears to be taking place. In the fall of 1956, a total of 119,000 students—21 per cent of the Commonwealth's college-age population—were enrolled in institutions of higher education. This indicates that something extremely significant is happening in the realm of higher education in Pennsylvania, as well as in the country at large. A combination of economic and social factors has developed an increased interest among young people in attending college in 1954 at the very time the number of persons in the 18-21 age group has decreased to the lowest point in thirty years.

Thus both nationally and in Pennsylvania, irrespective of increased population trends, quite apart from the problem posed by "the rising tide," it appears that higher education is entering a period of unparalleled growth, comparable in scope and significance to the phenomenal expansion of secondary education in the period between the two world wars. For the Commonwealth, in the judgment of the Commission, this increased interest in higher education will mean likely enrollments in the colleges and universities of the State totaling 138,000 by 1960, 180,000 by 1965, and 242,000 by 1970.

To identify the fundamental causes of the contemporary growth of American colleges and universities is to point up the very essence of our democratic system, for expanding educational opportunities are indispensable to a free and dynamic society. An expanding economy requires productive citizens—men and women who possess the scientific, technical, and professional skills necessary to meet the demands of an industrial society. In an era when free institutions are under relentless global attack and the United States bears the responsibilities of world leadership, an enlightened and mature citizenry has become more essential than ever before. This nation has long since learned that economic productivity, social enlightenment, and a strengthened democracy are the fruits of sound education, and just as a high school education became "normal" throughout the United States in the

period following World War I, so now is going to college rapidly becoming the "normal" thing to do.

Furthermore, it has long been the American dream that educational opportunities should be available to all citizens regardless of race, creed, or status who are able and desirous. This dream approached fulfillment in the expansion of the secondary schools in this country in the twenties, thirties, and forties; it began to be achieved on a limited scale in our colleges and universities during the period of the GI Bill; its inevitable realization in the form of opportunities for education beyond the high school for all who seek it and possess the capabilities to profit from it will characterize the America of the next two decades.

During recent years many States have studied the implications of explosive school enrollment trends for the colleges and universities within their respective boundaries. Agencies in New York, Maryland, New Jersey, and Ohio—to cite four states adjacent to Pennsylvania—each analyzed the national problem in State terms to determine such things as whether or not to offer a college education to all who are willing and able to take advantage of the opportunity, whose responsibility it is to provide these facilities in higher education, what sources of financial support should be utilized, what expansion of present colleges and universities is required, what new institutions need to be established, what modern society expects from its colleges, and so forth.

The range of questions facing the Pennsylvania Commission on Higher Education in its discussions over the past fifteen months was not unlike those explored by similar bodies in other states. But from its inception the Commission felt that, for a number of reasons which will be examined in detail later in its Report, the problems confronting the colleges and universities of the Commonwealth were in many ways unique, and that its findings should therefore be based on premises indigenous to Pennsylvania, and not on situations or conditions elsewhere.

In its deliberations, the Commission has been guided by the following principles:

Institutions of higher education have an obligation, consistent with their basic policies and aims, to help meet the needs of the Commonwealth of Pennsylvania by:

(1) Contributing to the further development of the economic, political, cultural, and social assets of the Commonwealth.

(2) Providing, through facilities both private and public in character, post high school opportunities which are accessible and of varied types, in order that all who are able and desirous may develop their capacities to the fullest.

(3) Conserving resources through the maximum utilization of existing facilities wherever possible.

(4) Increasing or augmenting facilities, either independent or public in control, where need exists.

(5) Formulating, individually and cooperatively, plans and programs designed to meet future needs.

It is within this framework of principle and on the foregoing assumptions that the Governor's Commission on Higher Education has prepared its Report.

B. Fundamental Questions

In approaching its task, the Commission first sought factual answers to the following questions, all of which relate directly or indirectly to the past development and current status of higher education in the Commonwealth:

1. What is the past, present, and projected picture of college-age population for the United States, Pennsylvania, and adjacent states?

2. What is the picture—past, present, and projected—with regard to the number of high school graduates in the United States, Pennsylvania, and adjacent states?

3. What have been the college enrollment trends in the United States, Pennsylvania, and adjacent states, and what are they likely to be during the next fifteen years?

4. What resources does Pennsylvania have insofar as higher education is concerned?

5. What relationship do Pennsylvania's economic, financial, and natural resources bear to its colleges and universities?

Taken collectively, the answer to these questions tell the story of who goes to college in Pennsylvania, where the students come from, what institutions they attend, how much it costs them, and how their education is financed. This story, essentially quantitative in nature, is outlined in the second section of this Report.

The Commission turned its attention next to the future and to the qualitative aspects of higher education in Pennsylvania. Using the population and enrollment projections referred to above as a backdrop for its discussions, the Commission explored the following six basic policy problems, each of which are discussed in detail in the third section of this Report:

1. Identifying those who should go to college.

2. Enabling the best students to secure a college education.

3. Maintaining the quality of higher education in a time of expansion.

4. Recognizing fields of special need in higher education.

5. Planning for an increase of available institutions.

6. Administering higher education in the Commonwealth.

C. Summary of Recommendations

Interwoven with the Commission's analysis of each of the problem areas just stated are a series of recommendations which the Commission commends to the attention of the people of the Commonwealth. In summary they are:

1. That the Commonwealth develop a cohesive, sound, long-range policy concerning higher education.

2. That the Commonwealth establish a statewide system of achievement and aptitude testing for all seniors in Pennsylvania high schools.

3. That the Commonwealth institute a scholarship and loan program, with four-year scholarships to be awarded on the basis of merit as determined by the testing program mentioned above, available for use in any approved institution of higher education in Pennsylvania, and of the value of $300 or one-half the tuition cost, whichever

is less; and a loan fund to provide further assistance, the amount of such assistance to be determined by the need in each case.

4. That the Commonwealth, in seeking to meet the demand for higher education by greatly increased numbers,

(a) look first to existing institutions, both private and public in character, to expand their facilities;

(b) encourage the establishment of new institutions with programs of less than four years—junior colleges, community colleges, technical institutes, and extension centers of colleges and universities—to meet the needs of the State beyond 1960, with the cost of such new facilities to be borne by a combination of funds from the local community, tuition, and the Commonwealth;

(c) give equal consideration to (1) the procurement of well-paid, qualified college teachers, (2) the development of adequate physical facilities for higher education, (3) the procurement of qualified, outstanding educational administrators, and (4) the improvement of teaching effectiveness through more efficient utilization of teaching resources and the development of new methods of instruction;

(d) give particular attention in its planning to the fields of general education in the arts and sciences, teacher education, engineering education, technical education, and graduate education.

5. That the Commonwealth establish within the immediate future an independent Commission on Higher Education with the following provisions:

(a) The Commission to be charged with the responsibility for coordination and planning in the field of higher education in the Commonwealth, including the supervision of the testing, scholarship, and loan programs recommended elsewhere and the chartering of the new institutions proposed.

(b) The Commission to be composed of seventeen members, appointed by the Governor, including the President of the Pennsylvania State University, the chief executive officers of the three large state-aided inititutions (The University of Pittsburgh, the University of Pennsylvania, Temple University), the State Superintendent of Public Instruction, the presidents of two state teachers colleges, the presidents of five independent colleges or universities, and five persons not connected professionally with education. These members to serve without pay and all, except the first five mentioned, to be appointed for properly staggered five-year terms. One of the lay members should be designated as chairman.

(c) The Commission to asume the present responsibilities concerning higher education now exercised by the State Council of Education.

(d) The present Bureau of Higher Education, in the Department of Public Instruction, to be made directly responsible to the Commission, and the head of the Bureau to become the executive Secretary of the Commission.

(e) Budgetary requests made by the Commission to be considered for fiscal purposes as a part of the budget of the Department of Public Instruction.

II. Dimensions of the Problem

The characteristics of our quantitative problem in higher education in the United States and the Commonwealth are revealed by an analysis of the following (a) the size of the general population, the size of the population of college age (18-21), the proportion of the youth population that graduates from high school, the dates of change in the proportion of secondary school graduates attending institutions of higher learning; (b) the rate of natural increase in a population, the degree of migration experienced by the population, and (c) the resources and facilities available and expended for this education.

In 1956, the United States census estimated the nation's population (including members of the armed forces overseas) was 167,440,000. The birth rate per 1,000 population as of the end of 1955 was 24.9, a rate not significantly lower than any annual birth rate since 1947, and higher than any annual rate experienced in the two decades between 1926 and 1947. Meanwhile, the United States population was experiencing its lowest death rates. The 1955 birth rate of 24.9 per 1,000 was complemented by a death rate of 9.3 per 1,000, a rate typical of the nation's mortality experience since 1947. As a result of higher birth rates and lower death rates the United States has experienced a higher survival rate for its population. In the wake of surviving has arisen the nation's grave concern over whether or not it is going to be able to provide the services that this increase in population is going to require. Looking ahead, and using as a base the birth rates of 1950-1953, the United States Bureau of the Census has made three population projections which will indicate the quantitative dimensions of the problems ahead. Assuming that the United States birth rates of 1950-1953 will remain constant, we may expect the nation's population to approximate 204,620,000 by 1970. If these rates remain constant to 1965 and then decline, the 1970 population will be 202,984,000. If, however, the 1950-1953 rate declines rapidly to roughly the pre-war level, the nation's 1970 population will be 196,370,000.

If the nation's past experience has any meaning, we may reasonably conclude that present and future generations are going to seek more years of education. The size of this potential problem is revealed in the fact that in the United States in 1900, approximately 4 per cent of the population between 18-21 years of age was enrolled in some institution of higher learning. In 1954, the proportion in college had increased more than 600 per cent to 29.2 per cent of that age group.

The population growth of the Commonwealth of Pennsylvania does not follow that of the United States as a whole. In 1950, Pennsylvania's population was enumerated at 10,498,012. By mid-year 1955, it had increased to 11,159,000 according to the United States Bureau of the Census. By 1960 the Bureau estimates that Pennsylvania's population will range between 11,221,000 and 11,369,000. The State Planning Board of the Pennsylvania Department of Commerce, using a more conservative method of projection reaches the conclusion that "if present trends continue the State's total population as of April 1, 1960 will closely approximate 11,038,000, which is probably a minimum expectation." In order to compare Penn-

sylvania's statistics with those of other states, the United States census projections are being used here. They indicate that, though Pennsylvania's percentage of the nation's total population is decreasing, the Commonwealth has been maintaining a relatively constant rate of growth since 1930. Projecting a continuation of this rate, a 0.5 per cent additional increase in population during subsequent five-year periods, and an additional 1.0 per cent increase during these years, we have the following table of population possibilities in the State through 1970.

Population Projections, Pennsylvania, by Levels of Increase, 1955-1970

Year	Population	High 1.0%	Medium 0.5%	Low 0.%
1900	6,302,115	.....	.....	.....
1910	7,665,111	.....	.....	.....
1920	8,720,017	.....	.....	.....
1930	9,631,350	.....	.....	.....
1940	9,990,180	.....	.....	.....
1950	10,498,012	.....	.....	.....
1955	.....	11,344,000	11,041,000	10,798,000
1960	.....	11,992,000	11,266,000	10,755,000
1965	.....	12,836,000	11,907,000	11,193,000
1970	.....	13,803,000	12,554,000	11,699,000

Source: Current Population Reports, U. S. Bureau of the Census.

When Pennsylvania is compared with its bordering states, several observations seem to have relevance for an analysis of its population growth. First, it may be noted that the percentage increase in its population between 1940 and 1950 was lower than the increase in all other states except West Virginia and less than half the rate of increase for the total United States population. Second, the 1955 birth rate for Pennsylvania was approximately that of New York and New Jersey but lower than all other states. Third, in Pennsylvania the death rate and infant mortality rate are in the upper limits of rates recorded for neighboring states. These birth and death rate statistics do not explain the relatively slow rate of growth in the Commonwealth in the 1940-1950 decade. For this, there is but one explanation—Pennsylvania has been losing population through migration.

Selected Population Characteristics of the United States, Pennsylvania and Selected States, 1950 and 1955.

	Percentage Increase in Population in 1940-1950	Birth Rate (per 1,000 population) 1955	Death Rate (per 1,000 population) 1955	Infant Mortality Rate (per 1,000 live births) 1955
United States	14.5	24.9	9.3	...
Delaware	19.4	26.4	10.0	24.5
Maryland	28.6	23.8	9.1	28.7
New Jersey	16.2	21.5	9.8	24.2
New York	10.0	21.4	10.3	24.3
Ohio	15.0	24.7	9.4	24.5
PENNSYLVANIA	6.0	21.4	10.1	25.1
West Virginia ...	5.4	22.7	8.4	26.8

An interpretation of future population needs may be deduced from the projections of the number of births and college age populations in the Commonwealth.

Projections for Births and College Age Populations, Pennsylvania, 1940-1970

Year	Births	College Age Population (18-21)
1940	165,456	768,666
1950	221,635	604,345
1955	230,318	557,716
1960	223,461	601,719
1970	271,082	866,190

Sources for this and previous chart: Data on births 1940-1950, Vital Statistics of the United States; for all other years, Operation Birth Rate, Department of Public Instruction, Commonwealth of Pennsylvania. Data on college age populations, 1940 and 1950, Reports of the United States Bureau of the Census; for all other years prepared by Commission staff.

These data indicate that on the basis of the 1950 rates the Commonwealth might experience a 0.7 per cent increase in its births by 1960 and 22 per cent increase by 1970. The college age population estimates from the 1950 base indicate that there will be 0.4 per cent decrease in births by 1960 but that its number will increase by 43 per cent over the 1950 figure by 1970. The degree of planning that must be exerted to care for this gross potential increase of students will be determined, in part, by the proportion of the population that elects to enter institutions of higher education.

Statistically, the size of the college-age population of Pennsylvania will begin to show significant increase from 1960 on. Some of the adjacent states—West Virginia, Delaware, Maryland and Ohio, may experience increases in the college-age population before that time. This suggests the possibility that Pennsylvania's enrollment in higher education may be further augmented, although the rate of migration (—2 percent) has changed relatively little in recent years. An index of the college-age population projections through 1970 follows:

Index of Actual and Projected College Age (18-21) Populations of Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and the United States, 1940-1970. (1950—100)

	Del.	Md.	N. J.	N. Y.	Ohio	Pa.	W. Va.	U. S.
1940	112	100	120	117	115	127.3	112	111
1941	110	100	120	112	113	118.9	120	113
1942	108	99	119	112	112	117.0	126	112
1943	105	98	117	110	112	114.3	128	113
1944	101	95	114	107	109	113.0	127	112
1945	100	95	112	107	108	113.1	112	110
1946	98	94	110	106	107	111.5	112	108
1947	96	93	107	104	102	108.7	110	106
1948	96	91	105	102	102	105.5	109	104
1949	95	89	102	99	99	102.5	108	102
1950	100	100	100	100	100	100	100	100
1951	98	96	98	93	93	93.2	96	98
1952	98	93	95	90	90	92.4	99	96
1953	96	91	92	88	90	92.2	105	95
1954	94	90	90	86	88	91.5	108	95
1955	94	90	89	86	92	92.3	111	96
1956	94	92	90	87	96	94.3	115	98
1957	97	94	92	88	97	94.9	116	99
1958	101	100	94	89	100	96.0	118	100
1959	103	104	95	90	102	97.0	119	102
1960	110	112	99	93	106	99.6	121	105
1961	116	119	109	102	113	106.3	125	112
1962	122	125	116	107	118	110.6	127	116
1963	128	127	123	112	121	112.7	128	121
1964	128	138	125	115	121	112.2	135	123
1965	137	149	133	122	131	118.8	142	131
1966	...	...	...	...	...	127.7	...	...
1967	...	...	...	...	...	132.9	...	...
1968	...	...	...	...	...	141.3	...	...
1969	...	...	...	...	...	141.5	...	...
1970	...	...	...	...	...	143.3	...	...

One of the major concerns in the planning of higher educational facilities in Pennsylvania is the probable increase in the proportion of college-age persons possessing the requisite secondary education who may elect to go to college. Between 1945 and 1952 the number of public high school graduates in the United States and states bordering on Pennsylvania increased as follows:

	1945	1952
United States	944,536	1,055,586
Delaware	1,682	2,150
Maryland	9,999	12,352
New Jersey	30,618	31,368
New York	86,847	94,033
Ohio	57,079	55,990
West Virginia	13,231	16,510

In Pennsylvania, during the period 1945-1953, the number of graduates ranged from 79,020 in the earlier year to peaks of 84,403 in 1949 and 1950, down to 80,552 in 1953. The Department of Public Instruction estimates that high school graduates will increase 49 per cent between 1955 and 1965. Public high school graduates are expected to increase 47 per cent, and graduates of nonpublic schools approximately 61 per cent during this period.

A FORECAST OF PENNSYLVANIA HIGH SCHOOL GRADUATES 1955-1965

Year	Total	Public	Non Public
1955	101,733	83,062	18,671
1956	105,618	83,990	21,628
1957	106,193	83,185	23,008
1958	110,404	85,747	24,657
1959	120,176	94,045	26,131
1960	129,291	101,807	27,484
1961	128,809	100,465	28,344
1962	123,076	94,201	28,875
1963	129,353	99,910	29,442
1964	145,553	115,602	29,951
1965	152,370	122,381	29,989

Source: Bulletin 74, No. 25, Table 10, Department of Public Instruction.

The increase of the number of high school graduates, a favorable economy and the demand for college-trained personnel have developed an increased interest on the part of young people to attend college.

There is no patent formula for determining how many of these graduates will enter colleges and universities. Educational administrators, however, believe that the upper 10-20 per cent of high school graduates are highly desirable human resources to be developed by further education. In Indiana, for example, it was found that only one-fourth of the upper 10 per cent of the high school graduates in the year 1954-1955 entered college. If one-fourth of the upper 10 per cent of the Pennsylvania gradates between 1955 and 1965 do not avail themselves of higher education, approximately 34,000 of the Commonwealth's able youth will not have reached their maximum potential.

Pennsylvania's enrollment in higher education has increased 63 per cent in the period 1930-1955 as indicated by the following table.

Full Time Enrollment in Pennsylvania Colleges and Universities by Percentage of College-Age Population (18-24) 1930—1955

Year	Enrollment	Per cent of College-Age Population
1930	70,372	11.1
1931	61,351	9.1
1932	60,225	9.2
1933	56,920	8.4
1934	56,656	8.3
1935	59,135	8.4
1936	61,869	8.7
1937	63,986	8.9
1938	65,929	9.1
1939	67,278	9.1
1940	67,196	8.7
1941	63,877	8.9
1942	61,543	8.7
1943	40,816	5.9
1944	40,502	5.9
1945	67,147	9.8
1946	106,247	15.8
1947	112,435	17.1
1948	118,283	18.6
1949	117,750	19.0
1950	107,995	17.9
1951	100,839	17.9
1952	99,859	17.8
1953	96,903	17.4
1954	101,813	18.4
1955	114,489	20.5

The Commission believes that enrollment in institutions of higher education will increase by approximately one-half of one per cent per year, due to increase of interest above and beyond birth rate. Projection of enrollment based on this per cent increase of interest along with college-age population increase indicates that enrollment in 1970 will be 112 per cent higher than in 1955. If projection is based solely on college-age population, enrollment by 1970 will increase by 55 per cent. If an increase of interest of 1 per cent is assumed, the enrollment increase is likely to be 168 per cent. The following table indicates the enrollment on all three of these bases.

FULL TIME ENROLLMENT 1930 THROUGH 1955 WITH PROJECTIONS TO 1970

Year	ENROLLMENT Actual	% of Col. Age Pop.	LOW Predicted Enrollment	% of Col. Age Pop.	MEDIUM Predicted Enrollment	% of Col. Age Pop.	HIGH Predicted Enrollment	% of Col. Age Pop.
1930	70,372	11.1	.....	...	.....	...	.....	...
1931	61,351	9.1	.....	...	.....	...	.....	...
1932	60,225	9.2	.....	...	.....	...	.....	...
1933	56,920	8.4	.....	...	.....	...	.....	...
1934	56,656	8.3	.....	...	.....	...	.....	...
1935	59,135	8.4	.....	...	.....	...	.....	...
1936	61,869	8.7	.....	...	.....	...	.....	...
1937	63,986	8.9	.....	...	.....	...	.....	...
1938	65,929	9.1	.....	...	.....	...	.....	...
1939	67,278	9.1	.....	...	.....	...	.....	...
1940	67,196	8.7	.....	...	.....	...	.....	...
1941	63,877	8.9	.....	...	.....	...	.....	...
1942	61,543	8.7	.....	...	.....	...	.....	...
1943	40,816	5.9	.....	...	.....	...	.....	...
1944	40,502	5.9	.....	...	.....	...	.....	...
1945	67,147	9.8	.....	...	.....	...	.....	...
1946	106,247	15.8	.....	...	.....	...	.....	...
1947	112,435	17.1	.....	...	.....	...	.....	...
1948	118,283	18.6	.....	...	.....	...	.....	...
1949	117,750	19.0	.....	...	.....	...	.....	...
1950	107,995	17.9	.....	...	.....	...	.....	...
1951	100,839	17.9	.....	...	.....	...	.....	...

1952	99,859	17.8	.....	...	.....	...	.....	...
1953	96,903	17.4	.....	...	.....	...	.....	...
1954	101,813	18.4	.....	...	.....	...	.....	...
1955	114,489	20.5	.....	...	.....	...	.....	...
1956	.....	...	116,810	20.5	119,659	21.0	122,508	21.5
1957	.....	...	117,531	20.5	123,265	21.4	128,998	22.5
1958	.....	...	118,933	20.5	127,636	22.0	136,338	23.5
1959	.....	...	120,149	20.5	131,871	22.5	143,593	24.5
1960	.....	...	123,352	20.5	138,395	23.0	153,438	25.5
1961	.....	...	131,639	20.5	150,904	23.5	170,168	26.5
1962	.....	...	137,008	20.5	160,399	24.0	183,791	27.5
1963	.....	...	139,673	20.5	166,926	24.5	194,179	28.5
1964	.....	...	139,025	20.5	169,543	25.0	200,061	29.5
1965	.....	...	147,168	20.5	183,062	25.5	218,957	30.5
1966	.....	...	158,197	20.5	200,640	26.0	243,084	31.5
1967	.....	...	164,645	20.5	212,843	26.5	261,023	32.5
1968	.....	...	175,061	20.5	230,568	27.0	286,076	33.5
1969	.....	...	175,345	20.5	235,220	27.5	295,094	34.5
1970	.....	...	177,600	20.5	242,576	28.0	307,552	35.5

The scarcity of specialized data on higher education in the Commonwealth motivated the Commission to solicit additional information through a questionaire submitted to the degree-granting institutions in the state. The questionaire data offer validation to conclusions reached from other materials previously mentioned.*

Approximately 135 in every 1000 persons of college age in Pennsylvania were attending some undergraduate institution in Pennsylvania in 1954. This is a relatively low proportion for the third largest state population in the nation. Even more significant, however, is the fact of the wide range of attendance indicated by a county analysis—Allegheny, Beaver, Centre, Clinton, Delaware, Lackawanna, Lycoming, Monroe, Montgomery, and Northampton counties are the only ones in which as many as 150 in every 1000 persons of college age are enrolled in undergraduate institutions. In 28 counties the proportion is less than 100 students in every 1000 of college age population.** The wide variation from county to county of the high school graduates going to college reflects problems of locating of institutions and the financial status of the area concerned.

The sources of enrollment and choice of type of institution indicate a significant, and almost unique aspect of the pattern of higher education in the Commonwealth, the prevalence of private institutions and their availability for programs of every type. In 1930 state-aided colleges had 50 percent of the total enrollment, state colleges had 14 percent and private institutions 35 percent of the students. By 1954, these proportions had changed to 36 percent, 9 percent and 54 percent respectively.

The questionaire elicited information concerning admissions of first time students. This information indicated that 76 institutions in 1950 reported an average number of 5,123 students applying, of whom they admitted 2,824 or 55.1 percent. In 1955, the 80 reporting institutions averaged 7,988 applicants of whom 3,560 or 44.4 were admitted.

Fall	Number of Institutions Reporting	Number of Applying	Students Admitted	Percent of Applicants Admitted
1950	76	38,932	21,462	55.1
1951	76	36,075	18,141	50.3
1952	78	39,972	21,778	54.5
1953	78	47,007	23,686	50.4
1954	79	53,766	26,040	48.4
1955	80	63,901	28,482	44.4

(Professional schools such as seminaries, law schools, medical schools, etc. not included).

Replies to the questionaire reported degrees awarded in the academic years 1950-51 to 1955-56. The comparison of the two academic years is significant because the college age population was at the lowest number in twenty-five years during this period. The figures below indicate a trend of increased interest, but are not complete because some institutions failed to respond. In the five year period under observation significant changes were noted in two areas only—the percentage of Junior College degrees awarded and the increase in the highest earned academic degrees.

	Earned Degrees Awarded 1950-51	1955-56	Per cent of Change
Certificate	1,562	1,220	— 22 percent
Associate	300	742	+147 "
Baccalaureate	23,402	17,567	— 25 "
Masters	3,759	3,375	— 10 "
Doctorate	696	775	+ 12 "

The major significance of the enrollment portion of the questionaire was that enrollments anticipated by the institutions coincided rather closely with the projected estimates by the commission research staff. The research staff predicted a low of 123,352, a medium of 138,395 and a high of 153,438 for the academic year 1960-61 while the institutions in their questionaire returns reported 134,109 full-time students anticipated.

The facilities survey adds additional insight into the problem of caring for increased enrollments. The institu-

* Statistical date covering the items reported in this section will be found in the Appendix.

** See Appendix II for table showing projected increase of college age populations in the several counties.

tions reporting indicated that facilities, if those in process are completed, will be capable of meeting the minimum needs of the 1960-61 projected enrollments.

The faculty-student ratio in these institutions was 13 students to one faculty member in both 1950-51 and 1955-56. There were 8,289 faculty members in 1950-51 and 8,900 in 1955-56. The alarming feature—if a ratio of 13 to 1 is maintained—is the acute shortage that the future portends. If the low figure for 1960 or 123,352, which is more realistic, is used, 1,746 additional instructors will be needed and if the high figure of 153,438 students is true, 2,902 additional instructors will be neded by 1960. The following table illustrates this.

Faculty Needed to Maintain Ratio of 13 to 1

	Actual	Low	Medium	High
1950-51	8,289	.....	.....	.....
1955-56	8,900	.....	.....	.....
1960-61	....	9,488	10,646	11,802
1965-66	....	11,321	14,082	16,842
1970-71	....	13,662	18,659	23,658

The shortage of faculty will be a problem by 1960 and will become acute by 1965, more so by 1970.

The problem of securing administrative personnel is not so acute. The ratio of one administrative person to 47 students which existed in 1950-51 was lowered to 1 to 37 in 1955-56. Utilizing the 1955-56 ratio the following projection was made:

Administrative Personnel Using 1950-51 Ratio of 1 to 47

	Actual	Low	Medium	High
1950-51	2,325	.....	.....	.....
1955-56	3,141	.....	.....	.....
1960-61	....	2,620	2,944	3,265
1965-66	....	3,109	4,045	4,807
1970-71	....	3,780	5,161	6,543

A salary survey was also made. The results are summarized in the following table:

	Average High	Average Low	Average Medium	No. of Institutions Reporting
Professor	$6,791	$5,116	$3,798	76
Associate Professor	5,621	4,491	5,000	73
Assistant Professor	5,085	3,891	4,460	73
Instructor	4,190	3,269	3,701	78

Current salaries present a serious problem in securing and retaining adequate faculty. Considering the fact that most students graduating with science training receive starting offers ranging on the average of $3600 to $5000 per annum, faculty salaries are alarmingly low. Comparison with salaries in other professions, as with wages in industry, provide equally startling evidence of the need for higher professorial salaries.

A problem which will probably become acute beyond 1960 is that of classroom facilities. The questionnaire survey reported an average of 17 square feet per pupil in 1955 or 2,156,179 square feet for the state. (These figures are only approximations which were based upon reports submitted by seventy-nine institutions making up the bulk of the existing ones. The thirtyfive not reporting were professional schools and others with a relatively small full-time undergraduate enrollment.) The square feet actually utilized was 1,946,473 because enrollments totaled only 114,489 students, while capacity was estimated at 122,833 students.

The institutions reported an additional 142,163 square feet now in process or approximately 2,307,342 square feet of classrooms by 1960 with a capacity of 125,770 students, approximately 12,625 students short of the need. Many of these 12,625 may be absorbed by the thirty-five institutions not reporting. Better space utilization will also be a helpful factor, all of which indicates no serious lack of classroom space is likely to exist until after 1960.

By 1965 a sizeable problem is likely to exist. Institutions anticipate a possible addition of 650,949 square feet from 1960 to 1965—a total of 2,958,291 square feet by 1965 with a capacity of 164,061 students, which is approximately 19,000 students short. There is, of course, no guarantee that these facilities will be built and there is no consideration of replacement of outdated buildings in the above discussion (Appendix XI).

Laboratory facilities for science study present another concern. The laboratory facilities of the Commonwealth average 57 square feet per student. There are approximately 1,966,601 square feet available with a capacity of 34,428 students. (These figures represent reports from seventy-seven institutions.) The institutions anticipate an increase of 122,044 square feet with additional capacity for 2,158 students or a total of 2,088,045 square feet and a capacity of 36,586 students by 1960. It is anticipated that the demand for science graduates will increase at an even more rapid rate by 1965, yet by 1965 the institutions anticipate 2,558,461 square feet with a capacity of 44,831 students, which will be far from adequate if current demands for science and engineering graduates continue. The costs of laboratories are far in excess of the cost of classrooms.

Shops used for instructional purposes pose a similar problem. Currently, there are 146,925 square feet for this purpose with a capacity of 1,875 or 78 square feet per student. This will rise to 149,885 square feet with a capacity of 1,912 students by 1960. By 1965, there will be 191,619 square feet with a capacity of 2,447 students. (These figures represent 22 institutions.) This too appears to be inadequate because, as in the case of laboratories and class rooms, this does not take into account the need for replacements.

Another problem is residential capacity and space. There now exists in Pennsylvania 3,082,409 square feet of dormitory space with a capacity of 18,454 male students or an average of 167 square feet per male student. (These figures represent 59 institutions.) By 1960, there will be 3,716,087 square feet with a capacity of 22,017 male students as estimated by the institutions. There will be 5,189,-718 square feet with a capacity of 30,073 male students by 1965. This does not allow for replacements. (Appendix XII).

The women student requires more space—231 square feet per student. (Based on reports from 61 institutions.)

In 1956 there existed 3,955,812 square feet with a capacity of 17,123 students. There will be approximately 4,746,079 square feet by 1960 with a capacity of 20,166 women students and 7,050,335 square feet with a capacity of 29,116 students by 1965.

There are additional facilities such as fraternity houses, sorority houses and quarters for married students with families, and the demand for these is likely to grow as undergraduate and graduate student bodies increase in size. (Appendix XIII.)

This brief survey of facilities is at best only an approximation. Because no other survey exists, however, the Commission presents it to indicate the need for sound planning to meet the "tidal wave" of the 1960's.

On matters of finance the Commission relied upon the Council of State Governments publication Higher Education in the Forty Eight States. The most significant item of the income source table was that Pennsylvania received a smaller percentage of support from state and local governments than any of the adjacent states and the United States average. This is due to the fact that such a large percentage of students attend private institutions in the Commonwealth.

Commonwealth General Fund Appropriations for education have increased from $87,400,000 in 1933-35 to $496,-300,000 in the 1953-55 biennium. This increase of 470 percent represents a change from 38 percent of the total General Fund Appropriations in the earlier year to 49 percent of the total in 1953-55. It is significant, however, that the state's aid to universities, colleges, and other state-aided educational institutions has not kept pace with this change. Aid to colleges and universities which accounted for 10.0 percent of the budgetary allocations in 1933-35 decreased to 9.2 percent in 1953-55.

To further illustrate financial patterns of higher education in the Commonwealth the research staff encountered many complex problems. The institutions of higher education receive their financial support mainly from private sources. The Commonwealth supports 14 state colleges directly, and sugsidizes four (4) universities and seven (7) other institutions of limited nature. Considering the fact that the majority of the institutions are privately controlled, the staff prepared a table (Appendix XVI) illustrating the endowments, income and expenditures of all institutions except the 14 state teachers colleges.

The statistics on fiscal operation are difficult to obtain on a current basis. This fact motivated the staff to chose a year which seemed to offer a desirable balance of students, finances, etc. The year was 1950. The following table, using 1950 as the index number 100 illustrates the possible future demand on the Commonwealth's financial resources, both public and private.

Year	Students	Index	Income	Expenditures
1950	107,995	100	$121,821,742	$123,341,010
1955	114,489	106	129,131,046	130,741,470
1960*	138,395	128	143,495,394	157,876,492
1965*	183,062	160	194,914.091	197.345.616
1970*	242,576	206	250,952,788	254,082,480

* Based on medium projections of enrollments.

This table indicates the sums needed, if the same dollar value of 1950 is held, and if the income and expenditures per student remain constant.

Pennsylvania institutions receive the smallest percentage (15.4 percent) of support from state and local governments, and receives the largest percentage from tuition and fees (29.7 percent). Tuition increased 23 percent in the 1945-1949 period, and 22.2 percent in the 1950-1955 period. Appendix XV lists the costs of education at 63 selected private institutions. It is self-evident that tuitions will reach the point of diminishing return if this trend continues. An increase in benefactions, corporate giving, and a state scholarship program would relieve this problem.

The operating cost of the 14 State Teachers Colleges illustrates well the problems faced by the private institutions as well as the rising amount of cost borne by the Commonwealth. In the 1945-51 biennium the Commonwealth bore only 45 percent of the costs while institutional receipts covered 55 percent. While the Commonwealth assumed 60 percent of the cost in the 1953-55 biennium, a 15 percent increase, private institutions had either to raise tuition or to obtain more gifts.

This chapter has shown the likelihood of a greatly increased demand for higher education in the Commonwealth after 1960, a demand which will be beyond the capacity of existing facilities and plans to meet. It has pointed out problems of faculty recruitment, salaries, inadequacy of classrooms, laboratory and dormitory space, and what follows, namely, the cost of providing facilities in the quantity needed, particularly in view of the unique pattern of public and private higher education which exists in the Commonwealth. The Commission makes concrete recommendations in the following chapter, recommendations which it hopes may provide at least a sense of direction in facing the numerous issues which are involved.

III. Proposals

As was stated in an earlier section of this Report, the Commission believes that accessible and varied opportunities for education beyond the high school must be provided in Pennsylvania in order that all who are able and desirous may develop their capacities to the fullest. If this objective is to be accomplished during the years immediately ahead—the period between 1957 and 1970—the Commission recommends first, that the Commonwealth develop a cohesive, sound, long-range policy for higher education.

The formulation and adoption of such a policy, long since an accomplished fact in many States, is already long overdue in Pennsylvania. Further delay in its development will result, inevitably, in the denial to thousands of youth—the state's most precious asset—the chance to acquire the knowledge and skill they must possess to be productive, enlightened members of their communities.

The internal development of this country politically, socially, culturally, and economically has from its very beginning been inextricably bound up with its commitment to education. America's colleges and universities each year help immeasurably to supply the trained working force required to strengthen the national economy; to create in the minds of countless citizens the desire for the goods and services produced by society; and to broaden

the perspectives and stimulate the ambitions of millions of young men and women so that they may take their places as mature, enlightened, productive members of the community. The Commission is convinced that the Commonwealth must immediately develop a policy for higher education geared to the economic and social needs of the United States in an interdependent world and designed to reflect the commitment of the people of Pennsylvania to the enduring values of higher education in a free society. It is the judgment of the Commission that a sound program for the development of higher education in Pennsylvania should be developed from a consideration of six basic areas:

1. Identifying those who should go to college.

2. Enabling the best students to secure a college education.

3. Maintaining the quality of higher education in a time of expansion.

4. Recognizing fields of special need in higher education.

5. Planning for an increase of available institutions.

6. Administering higher education in the Commonwealth.

A. Identifying Those Who Should Go To College

The only conscionable approach to this problem in mid-Twentieth Century America is that every qualified person who seeks a college education should have the opportunity to receive it, regardless of race, creed, sex, or economic or social status. To deny such opportunity, for whatever reason, to those who want a college education and are capable of profiting from it not only undermines the economy, but strikes at the core of the democratic tradition. The United States cannot long expect to wear the mantle of leadership of the free world unless it continuously expands educational opportunities at the post-secondary level. Any other policy would be fatally short-sighted.

During the past several years, a number of national commissions studying the manpower problem facing this country have called attention (1) to the continually increasing need for college-trained men and women in a number of critical fields, particularly science and engineering; (2) to the fact that for every individual enrolled in college there is at least one other person of college age, of equal capability who is not enrolled; (3) to the tremendous national wastage of human resources due to limited educational opportunities and lack of adequate testing facilities in high schools; (4) to the fact that large numbers of high-school graduates fail to go on to college because of economic hardship; and (5) that of the young men and women who do enter college, many fail to complete their educational programs because of personal discouragement, unwise vocational choices and lack of financial resources. Combined, these factors make for personal tragedy and social loss.

Turning to the positive side of the ledger, one of the most encouraging recent developments in American higher education has been the refinement of aptitude and achievement tests designed (1) to identify the students of superior ability; (2) to assist high school graduates and college students in making vocational choices suited to their potential; and (3) to enable educational institutions to acquire deeper insight into a student's potential so that a school or college in turn might help him to develop greater understanding of his own individual talents and interest.

A more widespread use of educational tests and the results they yield means a more effective utilization of our human resources. The Commission recommends that the Commonwealth establish a statewide system of achievement and aptitude testing for all seniors in Pennsylvania high schools. The need for such a system is, in the Commission's judgment, rooted in and justified by the basic principle that it is in the best interest of a free society continually to discover talent and to encourage its development to the highest educational level possible.

A statewide achievement and aptitude testing program would enable the Commonwealth to make the greatest possible use of its most valuable asset, its human resources, and to halt the wastage of talent by helping students to develop a surer insight into their abilities and interests. The administration of such a testing program should be conducted by a competent, qualified professional staff under the direction of the new Commission on Higher Education, later explained and defined.

B. Enabling the Best Students to Secure a College Education

The Commission recommends that the Commonwealth institute a scholarship and loan program. Scholarships should be awarded on the basis of merit as determined by the testing program described above. They should be available for use in any approved institution of higher education in the Commonwealth and should be of the value of $300 or one-half the tuition cost, whichever is less. The scholarships should be applicable only to the payment of tuition or instructional fees or both. They should continue through the four undergraduate years subject to the maintenance of satisfactory academic standing.

The loan fund should be used for further assistance to needy students, the amount of assistance to be determined by the need in each case. It should be available subject to such reasonable conditions as to interest and repayment as the administering agency may deem appropriate. Administration of the scholarship and loan program, including the development of criteria for determining financial need and procedures for selection of students, should rest with the new Commission on Higher Education.

In making this scholarship and loan recommendation, the Commission has been motivated by three principles. One is that no able young person should be denied an opportunity for college education on economic grounds alone. The second is that the student or his family or both should bear a reasonable proportion of the cost of higher education. The third is that the Commonwealth has an obligation to assist in providing higher education just as it has such an obligation with respect to primary and secondary education, although perhaps not to the same extent. This obligation is partially fulfilled through the existing pattern of State support and State aid, which in the Commission's opinion should be continued and ex-

panded. But more assistance is required if the needs of the Commonwealth for college-trained men and women are to be met. The scholarship device supplies this assistance in a form which makes it possible for a student to attend any approved institution of his own choice in the Commonwealth.

The recommendation that scholarships be awarded on the basis of merit rather than need involves a consideration of all of these principles. Public schools are available to all children irrespective of the financial standing of their parents. By the same token partial assistance in obtaining a college education should be provided. Loans granted on the basis of need will give further assistance where necessary, but the total amount of aid will still be insufficient in most cases to provide total support. The efforts of the student and his family will continue to be needed.

The value of the scholarship recommended is intended to express a figure which will amount roughly to one-half tuition in most Pennsylvania colleges. The limitation to one-half tuition is to prevent a "low-cost" institution, which is probably receiving other types of public assistance, from benefiting disproportionately from this form of aid.

Although the Commission is fully aware of the importance of graduate and professional training, it does not recommend the immediate extension of the scholarship program to these fields.

If this recommendation of the Commission is adopted, it is hoped that it will ultimately replace the present system of senatorial scholarships. These scholarships originated as a result of an arrangement between the Senate of the Commonwealth and the State-aided institutions. Although originally conceived as a device to reflect, in part, the assistance granted the institutions by the Commonwealth, the scholarships serve no purpose which could not be better attained by the system outlined above.

The cost of carrying out this program will be substantial. The Commission suggests that at the inception scholarship funds be provided sufficient to cover an equivalent of 5 per cent of graduating high school students on the basis of the aptitude and achievement testing program recommended. This would cost $4,500,000 for the first biennium. In order to initiate the loan program it is suggested that $6,000,000 be appropriated as a revolving fund. As circumstances permit, the program should be expanded.

C. Maintaining the Quality of Education in a Time of Expansion

Equally important along with the problem of how to provide greater educational opportunities quantitatively is the problem of how to maintain and improve the quality of on-going programs and insuring the development of high standards in any new programs which may come into being.

In attempting to serve increased numbers of students, the temptation will be inevitable to handle the quantitative problem by impairing quality. Competent teachers and adequate facilities cannot be prepared quickly, so makeshift arrangemnets may seem unavoidable. The object of this Report is to encourage those charged with the formulation of policy to reconcile the quantitative and the qualitative problems facing the Commonwealth's colleges and universities before enrollments hit their peak. It is hoped that a Commonwealth conscious of the importance of higher education in its future will act to meet the needs of its colleges and universities as though the imperative were immediate.

What, therefore, are the qualitative factors in education which should be maintained?

1. The Commonwealth must have well-paid, qualified college teachers who have a sense of dedication. There are too few teachers and their pay is too low. Our young people are our most cherished resource. In these formative years it would be a short-sighted policy to place them in charge of inadequately qualified people or those whose morale is low because of inadequate pay. Such instructors not only cannot inspire, but worse, they can discourage and mislead our youth. Good teaching is essential and its cost is high if talented and responsible people are to be recruited.

2. The Commonwealth must have adequate physical facilities for higher education. Crowded and badly equipped classroom buildings defeat the aim of education. Buildings need not be ornamental, but they should be architecturally sound and serviceable. Care in providing adequate libraries and laboratories, offices and work rooms is essential. New inventions and improved equipment need to be constantly investigated and tested.

3. The Commonwealth must have qualified, outstanding educational administrators. The administration of higher education is more intricate than formerly, and plays an increasingly significant role in the welfare of students. Health services, counseling, social and athletic programs are all important for a well-rounded education. Educational administrators should be men and women of competence, of broad understanding, and of vision. These criteria require superior education and adequate renumeration.

4. The colleges and universities of the Commonwealth must offer carefully designed curricula in sufficient variety to meet the needs of the student and society. Life today is highly specialized and knowledge is tremendously increased. Effort must be made to preserve the values of well-rounded liberal education and to integrate and correlate with it vocational and professional programs. This means wise curriculum planning, effective distribution of time and effort, and the use of new teaching methods. The maintenance of quality can be achieved in the Commonwealth if able professors are given equipment and facilities under the leadership of high-minded administrators to instruct students in well-conceived curricula. Quality must be emphasized or the whole purpose of education is defeated.

D. Recognizing Fields of Special Need in Higher Education

It has been amply demonstrated earlier in this report that after 1960 the Commonwealth faces a major problem in how to provide for the greatly increased numbers who will be seeking entrance to our colleges and universities. Thus far in its recommendations the Commission has argued for a long-range policy concerning higher education, a testing program which will help select the able students, a scholarship and loan program to make it possible for the ablest to attend college, and a deep concern

on the part of the Commonwealth to maintain the qualitative aspects of higher education.

In this entire process attention must be given to the types of higher education which will be most in demand, and to those areas in which there is likely to be greatest need. The commission, therefore, recommends that the Commonwealth give particular attention in its planning to the fields of general education in the arts and sciences, teacher education, engineering education, technical education, and graduate education.

1. General Education in the Arts and Sciences

Higher education in the United States from its very beginning has made one unique contribution to educational history, the liberal arts college, designed to develop men, and then later women, as enlightened persons capable of assuming roles of leadership in a democratic society. This pattern of education has served effectively since the seventeenth century in training young people for professional life and for managerial positions. Its purpose has been to provide rigorous mental discipline, learning in the basic fields of knowledge, and to develop the skills of communication and analysis which are necessary for judgment and decision-making. Campus life, with its continuous personal relationships between student and faculty member, and its extra-curricular program through which explorations are made into areas of responsible management and citizenship, has helped to develop the individual into a well-rounded person, capable of activities in many areas, professional and otherwise, and of judgment in civic and family matters. The purpose of liberal arts education has had wide acceptance and hence numerically this has traditionally been the most widely selected curriculum. This is likely to continue to be so and the Commission believes that it should be.

In the present century, America has been increasingly benefited by technical developments and the further expansion of these leads to greater demand for technically-trained personnel. At times this need has been so great as to permit some to argue that higher education is itself destined to become more and more technical in character. Two factors, however, have in rceent years made this position less tenable. First is the increasing demand on the part of business and industry for young people who have technical skill but who have broad backgrounds as well. Industry in many cases prefers to give its own specialized in-service training; it wants men and women who can do not one thing but many, whose knowledge and insight bring resourcefulness and judgment to the job. Secondly, the very rapidity with which technical needs change indicates that versatility on the part of the individual is more important than narrow specialization. The number of defined positions which go out of existence in a given year mounts into the thousands as does the number of new occupations available. These factors, combined with the normal needs of the individual for preparation for civic responsibility and for personal enrichment, argue that the greatest demand in higher education in the years ahead will be for general education in the arts and sciences.

This does not, however, argue that the answer to the problem of expansion comes solely, or even largely, in the multiplication of four-year residential liberal arts colleges. That some expansion in this direction is to be favored goes without question, but cost alone may prevent large-scale establishment of new four-year institutions. This is basic to the recommendation later made that consideration be given to the establishment of less than four-year institutions. It is the belief of the Commission, however, that in practically all new institutions emphasis should be placed on general education along with whatever technical or professional programs are initiated.

2. Teacher Education

The preparation of teachers for elementary and secondary schools is another area deserving of special attention, and immediately, for the greatly increased college enrollments about which this Report is concerned is already preceded by an equivalent increase in enrollment on both the elementary and secondary levels.

The disparity between the number of qualified teachers available and the number needed annually has assumed serious proportions. Approximately 4,500 persons eligible for certification to teach in the public schools are currently being graduated from Pennsylvania colleges. Conservative estimates indicate an annual need for 6,500 teachers through the next decade. This means then that approximately 12,000 to 16,000 additional teachers will be needed by 1965 to meet enrollment demands, exclusive of turnover.

During the ten-year period through 1967, approximately 23,000 replacements will be needed to meet turnover demands in the elementary division. The annual need will range from approximately 2,000 to 2,500. In the secondary division, turnover requirements for the ten-year period will likewise be about 23,000.

A study of the 1955 class of graduates (4446) from teacher education curricula in Pennsylvania Institutions indicates that 58.1 per cent of the class entered teaching in the Commonwealth, filling 48 per cent of existing vacancies (5379). Within this class of graduates there were 1600 elementary teachers and 2846 secondary teachers. Of these numbers 870 or 56 per cent of the elementary teachers and 1220 or 42 per cent of the secondary teachers were educated in the fourteeen State Teachers Collges. The remainder received their education in the other universities and colleges of the Commonwealth. There were 1132 graduates who did not enter the profession, and 729 hold teaching positions in other states. This class is typical of what is to be expected in subsequent years if the situation is not remedied.

The Commission has several proposals which it believes may be helpful in alleviating the teacher shortage. They are:

(a) Reconsideration by the State Council of Education of the qualitative and quantitative requirements for teacher certification with a view to recruiting into the profession the most able people possible.

(b) Experimentation in teacher education programs should be encouraged in the hope of discovering new methods for the improvement of the quality of teacher training.

(c) Institutions should be encouraged to provide opportunities for graduates who, with a moderate amount of further training, might be brought back into the profession.

(d) The State Council of Education should define the equivalent of the Master's Degree required by Section 1141 of the School Code for teacher salary increments or, failing this, should consider recommending the elimination of the term "equivalent" from the Code.

(e) The State Teachers Colleges should be encouraged to strengthen their undergraduate curricula and facilities since it is their function to provide teachers for the public schools, and other colleges and universities should also be encouraged to assume an even greater role than they have in the past in this field.

(f) Consideration should be given by the State Council of Education to increasing the number of institutions accredited for graduate training in the area of teacher education in view of the salary increment based on possession of an advanced degree. In doing this, however, care should be taken not to permit institutions to engage in this costly augmentation of program at the expense of the major task of securing more teachers through the availability of increased undergraduate facilities, to be certain that each institution has high quality of staff, library and other facilities already in existence and is properly accredited by the regional association.

3. Engineering Education

Engineering is a field which has developed enormously in the present century. There were only 40,000 engineers at the beginning of the century. By 1950 there were 543,000. Another 100,000 have graduated from engineering schools since 1950 and still the demand for engineers grows, as it is bound to do with every increase in automation.

Since 1950 industry has employed all the engineering graduates it could find and has sought more. The demand resulted partly from military activity, but plant expansion and other kinds of new construction, television, plastics, industrial chemistry and all the other requirements of a high level of civilian production accounted for most of the demand. The most thorough and significant statement of the problem nationally was prepared by the Commission on Human Resources and Advanced Training, directed by Dael Wolfle and issued under the title, "America's Resources of Specialized Talent" in 1954. This study indicates that without mobilization demands the normal requirement will be for 30,000 additional engineers a year for at least the remainder of this decade.

The problem is not entirely one of facilities. It is first and foremost one of recruitment. If the number of potential engineers are recruited which it is believed necessary to train in the years ahead then facilities do become an urgent problem.

To date, there has been no systematic compilation of data relating the present and foreseeable needs of Pennsylvania industry to the supply of engineers being trained in the Commonwealth's colleges and universities. It is known that there are far more job opportunities for engineers in the state than there are graduates to fill them. It is also recognized that opportunities are increasing at a phenomenal rate, in Pennsylvania as well as in other highly industrialized states. In view of the significance of the problem and the lack of data relating to the size of need such as is available in the case of teacher demand and supply, the Commission believes that (1) the Commonwealth should undertake, through one of its agencies, a study of the engineering needs of Pennsylvania industry for the forseeable future, this study to supplement the one now being made at the national level by the President's Committee on Scientists and Engineers and (2) give special attention to the development of technical and professional engineering education to the extent that this is needed to meet the economic and industrial needs of the state.

4. Technical and Professional Education

The Commission has not been able to study the need for trained personnel in all areas of professional competence. It did conduct an opinion survey of established and responsible individuals in various fields. This seemed to indicate a situation which ranged from no real need for expansion of facilities in certain fields such as law to a very great need for recruitment in such fields as nursing where present facilities are not being taxed to the full. In fields such as medicine, dentistry, and pharmacy, there was difference of opinion as to how much need there was or of what type. In general, it is the Commission's judgment that there is no critical need to be currently explored in other than the areas specifically treated in its recommendations. This judgment is subject to correction in the light of subsequent developments in the Commonwealth's economic and social picture.

The Commission did conclude that there is an area of technical education not adequately covered in the Commonwealth's varied educational program in higher education, an area which, if studied carefully and developed in the light of local need, might help to alleviate the more serious problem in engineering education. This area includes post-high school but less than baccaluareate degree status curricula designed to provide a significant amount of specialized training useful in areas such as aeronautical technology, refrigeration, automotive technology, and building construction. The Commission recommends later in the Report that curricula be established where local needs exist in the Commonwealth.

5. Graduate Education

The needs of higher education which the Commonwealth faces do not in any sense diminish in the various fields of instruction concerned with the postgraduate degrees, namely, Master of Arts, Master of Science and Doctor of Philosophy.

The two great educational objectives of those directing the earning of these degrees are assuming ever increasing importance in American society. The first of these is research training, the second is the extension of man's knowledge by written and oral communication: in other words to discover new knowledge and to disseminate it.

In fulfilling these purposes, it is obvious that teaching plays a great role. One of the real achievements in 20th century education has been the setting of a high standard for college teachers indicated by the requirement in so many of our educational institutions that those holding high teaching positions should possess higher degrees. This means that we require not only that teachers have knowledge and can impart it, but that they shall have basic skill in creating it, that each in his own field shall have had some practice in extending the bounds of knowledge. However, the full significance of college teaching is much larger than this and growing increasingly so in

an age of automation, science, technology, engineering, and highly complicated social analysis. Industry of all sorts is requiring research skill, not only in the technological but in the social fields as well. The great strides being made in medical research mean that the field of medicine needs not only M.D.'s but an increased number of Ph.D.'s trained in the basic sciences and prepared for careers of research therein.

In the years between now and 1970, we must provide facilities for greatly increased graduate instruction, not only to meet the demand for an augmented educational staff in universities, colleges and secondary schools, but also for skilled research personnel in industry, medicine and a multitude of social agencies. We must prepare more than double the number of those now being trained. The average number of Master's degrees awarded in the Commonwealth per year between 1941 and 1950 was 1,956 and Doctor's degrees, 195. This increased to 3,316 Master's degrees and 1,557 Doctor's degrees in 1955, which shows a trend that will necessarily continue, if not accelerated.

To prepare for the training of these additional numbers we must greatly strengthen the programs which we now have. The quality of training needed involves well-equipped facilities and a record of long-term successful operations. The guidance of those who are learning to do research can be carried on to best advantage only where there are experienced research units, where there are well-established laboratories and where there are great libraries. Staffs, laboratories and libraries, and particularly the skill that comes from long and coordinated practice cannot be created in a short space of time. even if huge sums of money are available. The personnel needed can be trained at minimum expense through augmented support to the institutions now offering such work in the Commonwealth.

In view of the greatly increased enrollments anticipated after 1960, the Commission wishes to re-emphasize the probably critical shortage of college teachers which will follow in the wake of high enrollment. The shortage will be made even more critical as attractive salaries in business and industry lure professors into other fields of activity. The Commission, therefore, believes it essential that

(1) higher faculty salaries be established in all public and private institutions;

(2) experimentation take place in programs preparing college teachers;

(3) a recruitment program be developed to encourage promising students to choose the profession of teaching;

(4) financial aid be established for gifted students who enter graduate school in preparation for college teaching.

E. Planning for an Increase of Available Institutions

Over the years, the Commonwealth has developed a unique system of higher education involving well-established public and private institutions. It preserves the freedom of educational enterprise; it enlists both public and private resources; and yet it can provide educational programs covering every field of instruction desired and supply leadership in developing the research necessary to advance the frontiers of knowledge. The system is economical and efficient.

This unique pattern includes one land-grant institution, fourteen state teachers colleges, three state-aided universities, nine state-aided colleges and technical schools, 61 privately-supported colleges and universities, 11 privately-supported junior colleges, and 19 privately-supported theological seminaries and independent professional schools—a total of 118 institutions of higher learning.

As the land-grant institution of the Commonwealth, The Pennsylvania State University, through facilities located on the main campus and at its undergraduate centers and technical institutes in other sections of the State, offers undergraduate, graduate, and professional education in nine colleges and a graduate school, plus a program of technical and adult education in General Extension.

The Commonwealth extends financial support to three state-aided universities—Temple University, the University of Pittsburgh, and the University of Pennsylvania —which provide undergraduate, graduate, and professional education in medicine, law, and other fields in populous areas. Without these institutions and the assistance that comes to them from endowment and tuition income a much greater expenditure would be required of the State. This system of public support of independent institutions on a non-contractual basis is unique to Pennsylvania.

The Commonwealth recognizes its obligations to make special provision for the education and certification of persons qualified to teach in the public schools. Standards have been formulated as a basis for the issuance of legal certificates for teachers, and institutions of higher education which prepare teachers obtain authorization to do so through the State Council of Education. Fourteen state-owned teachers colleges, the Pennsylvania State University, the state-aided universities, and more than fifty privately-supported colleges now offer accredited programs in teacher education.

The privately-supported colleges and universities are chartered to carry on the work of higher education according to the policies set down by their respective Boards of Trustees. They are independent in their existence and operation. They have, however, an allegiance to the citizens of the Commonwealth, which stems from the trust placed in them by the granting of a charter by the State, and they have been the bulwark of higher education in the Commonwealth from the beginning, saving millions of dollars of tax money every year.

This distinctive system of higher education has been in operation in part of in whole for some forty years. It is deserving in all of its facets of continued support by the Commonwealth, and it is capable of much of the development and expansion that will be necessary to meet the needs of the State in the fields of liberal, technical, professional, and adult education.

Even with every effort exerted to encourage existing institutions to expand their facilities to meet the educational needs of the Commonwealth beyond 1960, it is the opinion of the Commission that their resources will still fall short and hence the Commission recommends the Commonwealth consider the establishment of new institutions on a less than four year basis in the fields of

general education in the arts and sciences and in technical education as need arises.

During the past quarter of a century there has been a rapid development of junior colleges, community colleges and technical institutes in many sections of the United States. The growth of these programs has been influenced by many social and economic factors as well as by the increased demand among youth of college age for educational opportunities beyond the high school.

The U. S. Office of Education report on resident enrollments in four-year colleges, professional, teacher and technological programs from 1941-42 to 1951-52 indicates a gain of 118.7 per cent. Junior college enrollments for the same period increased 190.9 per cent. The rapid increase of enrollment in junior college programs, exclusive of totals for institutes and colleges with other names, indicates the growing popularity of two and three-year post secondary school programs.

As the number of applicants for admission to college increases one should expect many four-year colleges to select those that have the greatest promise for academic success. Among the applicants for admission to four-year colleges have been many who, if properly advised, might well have sought a program more suitable to their needs. Two and three-year programs have developed throughout the country for students whose interests are not best served through a four-year program.

What, then, should the Commonwealth offer to these youths who do not wish to be admitted to four-year curricula? The answer given in many sections of the country appears to be a very proper one for a state as diversified industrially and with as many populous areas as Pennsylvania. Community colleges and technical institutes overcome many difficulties that confront individuals and populous areas.

One of the chief purposes of community colleges and technical institutes is to make limited programs in higher education available to larger numbers of people at low cost to the individual student. They are normally established near centers of population so that they are readily accessible to the commuting student and thereby eliminate the living cost which is required of the resident student. A higher percentage of college age youth go to college in those areas where colleges are accessible for commuting students. A 1949 Minnesota report stated that "one-fourth of our young people who live within ten miles of a college are attending college the first year after they graduate from high school. But among the youth who live more than 25 miles from a college, the ratio is one in seven." Accessibility for commuting students is desirable. This is one of the purposes of the community college and the technical institute.

Socio-economic forces in our society give strong support to the need for short-term general and technical education. The 1955 distribution of our labor forces indicates a trend toward semi-skilled, skilled, and clerical workers. During the last forty years the percentage of the total labor force in agricultural and unskilled pursuits dropped from 31.0 per cent and 21.5 per cent to 11.8 per cent and 12.9 per cent respectively. This shift reflects the growth of our industrial and technological life and dictates the need for educational programs which will direct many students into pursuits for which there is a growing demand.

Statistics indicate that the age of entry into industrial employment is gradually increasing. Therefore technical programs offer the greatest challenge to those who normally would prefer an early entry into industrial employment. When such programs are provided at a community level it is likely that they will be articulated with the local needs of industry.

Whatever type of educational offering is made available, the establishment of new institutions involves several considerations. It is the judgment of the Commission that the following propositions should be followed by the new Commission on Higher Education before encouraging an interested group to establish a new institution.

First, the possible duplication of service should be considered. The establishment of a new institution in a population area already served by an existing college or university may be justified provided:

(a) the proposed educational curriculum is not offered in the area

(b) there is a desire and need for such facilities

(c) financial support of an existing institution, whether public or private, will not be jeopardized by the presence of the new one.

Second, it is essential to determine the extent of the need in any area not now served. Two factors are involved here, the economic and social needs of the area and the likelihood of a sufficient and continuing enrollment.

The third consideration is that of available finances. In establishing a new institution, it is imperative that sufficient funds be guaranteed to assure continuing support, good faculty salaries, and an adequate plant. The question of who should assume this obligation is important.

The pattern developed in most states, and recommended here, is the administrative responsibility rest wherever possible with the local community and financial support come from a combination of tuition, local effort, and state support. The pattern of distribution of financial responsibility varies from state to state but the principles of local sponsorship and decentralized administration should be recognized. This sharing of responsibility insures careful and frugal development. To permit control of these community colleges by a highly centralized state authority would destroy the initiative that should come from the local community. The administration of the college should be local but be independent of those who are responsible for the public secondary schools in order to permit each, the secondary school and the college, the fullest opportunity for development. The college begins where the secondary school ends.

There is no dichotomy between living and making a living. The curricula should therefore include ample offerings in general education and in vocational courses useful in securing local employment. The desirability of general education in the arts and sciences has values in personal living and makes transfer to four-year institutions possible. Junior college graduates do quite acceptably upon transfer to four-year institutions. The time requirements for professional and graduate study are gradually increasing. The study of medicine, law, dentistry and graduate programs leading to advanced degrees are long and costly journeys. The recruitment for the professions will be en-

hanced by opportunities locally for those who because of economic reasons cannot spend the first years on a resident campus. With these possible outcomes in mind, each two-year college should develop the strongest possible program in general education.

It is difficult to define precisely for any community the technical curricula that are best suited to its youth. Geography and local industry do this. Many more youths remain for employment and lend their productive efforts to their home communities when they go to school there. This suggests that technical curricula are designed primarily for the geographical areas in which the colleges exist. All offerings in vocational areas should be on the post secondary school level and where possible they should be articulated with like curricula in four-year colleges.

The potential of the Commonwealth rests with its people. To enable them to use their skills and competencies they need opportunity for study and personal growth compatable to their interests and abilities. The community colleges and technical institutes as they are now evolving in America greatly supplement the four-year colleges and the universities in this task.

F. Administering Higher Education in the Commonwealth

One of the great advantages of the existing pattern of higher education in Pennsylvania is its diversity in curricular offerings, in size and type of institution and in form of control. While diversity is fundamentally good and to be preferred over highly centralized and formal control, its hazard is inadequate coordination.

The demand for higher education throughout the country has been on the increase for several decades. Higher education has become big business, its cost is great and the provision of new or enlarged facilities is a process requiring time as well as wise judgment. As the need for higher education has been increasing so also other social needs have come to the fore, and thus the purposes to which private and public funds are devoted have increased both in number and in size. Waste in the use of our resources, educational or otherwise, is not to be condoned. It must be avoided by statesmanlike cooperative planning and coordination.

Adequate instrumentalities for administration and planning have not been available in Pennsylvania. The Pennsylvania State University and the three other state-aided universities have dealt directly with the legislature in seeking funds. The teachers colleges have operated directly under the Superintendent of Public Instruction who in turn has had no significant part to play in the planning done by other institutions supported in whole or in part by state funds. The private institutions have had an association (The Pennsylvania Association of Colleges and Universities) through which some cooperative activities have been carried on but without benefit of coordination with the institutions outside its membership. The State Council of Education has certain legal powers in the administration of higher education but its obligations in regard to other levels of education have grown so extensive that higher education has been necessarily a minor, rather than a major, concern. Only within the past few years has there even been a Bureau of Higher Education in the Department of Public Instruction and this bureau has been understaffed.

It is the judgment of the Commission that careful consideration should be given to the establishment of an organization capable of high level policy making for higher education in the Commonwealth, both in terms of coordination of existing programs and in terms of long-range planning to meet future needs. The Commission therefore, recommends that the Commonwealth establish a permanent independent Commission on Higher Education with the following provisions:

1. The Commission to be charged with the responsibility for coordination and planning in the field of higher education in the Commonwealth, including the supervision of the testing, scholarship, and loan programs recommended elsewhere, and the chartering of the new institutions proposed.

2. The Commission to be composed of seventeen members, appointed by the Governor, including the President of the Pennsylvania State University, the chief executive officers of the three large state-aided institutions (The University of Pittsburgh, The University of Pennsylvania, Temple University), the State Superintendent of Public Instruction, the presidents of two state teachers colleges, the presidents of five independent colleges or universities, and five persons not connected professionally with education. These members to serve without pay and all, except the first five mentioned, to be appointed for properly staggered five-year terms. One of the lay members should be designated as chairman.

3. The Commission to assume the present responsibilities concerning higher education now exercised by the State Council of Education.

4. The present Bureau of Higher Education, in the Department of Public Instruction, to be made directly responsible to the Commission, and the head of the Bureau to become the Executive Secretary of the Commission.

5. Budgetary requests made by the Commission to be considered for fiscal purposes as a part of the budget of the Department of Public Instruction.

This proposal is in line with the movement in other states to consider higher education as of such public importance that its administration be made independent of other public authorities in the field of education.

In the judgment of the members of this Commission the establishment of such an agency is the most important single action that could be taken to further the interests of higher education in the Commonwealth. It is urged that immediate consideration be given to this recommendation.

APPENDICES

Appendix I—Population by county and college age (18 years through 21 years) population by county and residents of counties attending under-graduate school within Pennsylvania

Appendix II—College age population (18 through 21 years) projected by county for the years (1960, 1962, 1965 and 1967)

Appendix III—Student enrollments in Pennsylvania educational institutions by counties and types of institutions, 1955-56

Appendix IV—Pennsylvania college enrollment by financial source of the institution, 1930-54

Appendix V—Total opening (fall) college enrollment and first-time students for the United States, Pennsylvania, and selected states, and percent of change 1954, 1955

Appendix VI—Gains and losses in student migrations and higher education between Pennsylvania and selected states, 1930, 1940, 1950

Appendix VII—Predicted trends in college enrollments, by sex and type of education, 1900-1970

Appendix VIII—Student enrollment in institutions of higher education legally authorized to grant degrees, Pennsylvania, 1955-56

Appendix IX—Student enrollments in 115 educational institutions, Pennsylvania, 1950-51, 1955-56, with anticipated enrollments for 1960-61 and 1965-66

Appendix X—Earned degrees of faculties, Pennsylvania colleges and universities, 1955-56 (66 institutions reporting)

Appendix XI—Educational space facilities, Pennsylvania colleges and universities

Appendix XII—Residential capacity and space of Pennsylvania colleges

Appendix XIII—Cost of education to the student, Pennsylvania, 1944-45, 1949-50 and 1955-56

Appendix XIV—Sources of educational and general income for higher education for Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and the United States, 1950 (in thousands of dollars)

Appendix XV—Report on tuition, fees, room and board

Appendix XVI—Income and endowments of accredited colleges and universities

Appendix XVII—The Commonwealth's share-state teachers colleges

Appendix XVIII—Statistical summary, higher education in U. S., Pennsylvania and selected states, 1952

Appendix XIX—Financing higher education in Pennsylvania: Technical comments

Appendix XX—Higher education in Pennsylvania—an over-view

Appendix I—POPULATION BY COUNTY AND COLLEGE AGE (18 YEARS THRU 21 YEARS) POPULATION BY COUNTY AND RESIDENTS OF COUNTIES ATTENDING UNDERGRADUATE SCHOOL WITHIN PENNSYLVANIA

County	Population		No. Attending	% of College Age Attending
	Total	College Age		
Adams	49,157	2,751	179	6.5
Allegheny	1,567,363	72,624	12,907	17.8
Armstrong	83,733	4,863	517	10.6
Beaver	187,063	9,576	2,246	23.5
Bedford	40,810	2,444	195	8.0
Berks	260,388	13,114	1,670	12.7
Blair	138,037	7,940	718	9.0
Bradford	54,517	2,967	309	10.4
Bucks	200,169	7,512	912	12.1
Butler	103,707	5,592	740	13.2
Cambria	216,845	13,095	1,202	9.2
Cameron	7,655	375	45	12.0
Carbon	58,145	3,528	343	9.7
Centre	71,258	3,293	934	28.4
Chester	175,705	8,559	1,077	12.6
Clarion	38,965	2,789	352	12.6
Clearfield	85,296	5,722	414	7.2
Clinton	36,456	2,218	345	15.6
Columbia	53,873	2,876	363	12.6
Crawford	80,279	4,320	440	10.2
Cumberland	109,168	5,088	698	13.7
Dauphin	214,279	9,749	1,151	11.8
Delaware	480,089	20,074	3,263	16.3
Elk	35,579	2,247	248	11.0
Erie	233,295	11,108	1,589	14.3
Fayette	189,899	12,077	699	5.8
Forest	4,755	327	19	5.8
Franklin	82,407	4,200	385	9.2
Fulton	10,539	701	40	5.7
Greene	43,734	3,020	275	9.1
Huntingdon	42,347	2,842	251	8.8
Indiana	75,155	5,007	688	13.7
Jefferson	49,861	2,981	275	9.2
Juniata	15,009	946	44	4.7
Lackawanna	257,263	12,548	2,142	17.1
Lancaster	248,296	13,032	1,498	11.5
Lawrence	111,634	5,568	814	14.6
Lebanon	89,265	4,690	525	11.2
Lehigh	209,884	9,812	1,384	14.1
Luzerne	377,896	22,877	3,279	14.3
Lycoming	107,965	5,184	867	16.7
McKean	56,457	3,648	280	7.7
Mercer	119,409	6,077	850	14.0
Mifflin	44,466	3,053	254	8.3
Monroe	35,786	1,652	278	16.8
Montgomery	407,099	16,680	3,167	19.0
Montour	16,001	922	80	8.7
Northampton	197,722	9,063	1,457	16.1
Northumberland	118,630	6,999	709	10.1
Perry	25,735	1,652	75	4.5
Philadelphia	2,134,281	96,207	11,008	11.4
Pike	8,939	423	45	10.6
Potter	16,810	1,104	98	9.0
Schuylkill	198,350	12,024	907	7.5
Snyder	23,182	1,440	147	10.2
Somerset	82,541	5,369	339	6.3
Sullivan	6,643	437	30	6.9
Susquehanna	33,227	2,036	168	8.3
Tioga	36,879	2,074	275	13.3
Union	24,588	1,368	186	13.6

Appendix I—POPULATION BY COUNTY AND COLLEGE AGE (18 YEARS THRU 21 YEARS) POPULATION BY COUNTY AND RESIDENTS OF COUNTIES ATTENDING UNDERGRADUATE SCHOOL WITHIN PENNSYLVANIA—Continued

County	Population			% of College Age
	Total	College Age	No. Attending	Attending
Venango	66,193	3,758	333	8.9
Warren	44,674	2,223	216	9.7
Washington	223,401	11,885	1,012	8.5
Wayne	27,127	1,642	176	10.7
Westmoreland	335,232	16,666	2,193	13.2
Wyoming	16,612	1,112	97	8.7
York	218,465	11,280	1,071	9.5
TOTAL	11,016,320	552,691	74,474	13.5

Appendix II—COLLEGE AGE POPULATION (18 THRU 21 YEARS) PROJECTED BY COUNTY FOR THE YEARS (1960, 1962, 1965 and 1967)

County	1952	1954	1960	1962	1965	1967
Adams	2,731	2,751	2,746	3,159	3,383	3,797
Allegheny	73,647	72,624	78,911	92,520	99,117	113,307
Armstrong	4,965	4,863	5,423	5,928	6,084	6,835
Beaver	9,605	9,576	10,296	11,802	12,537	14,163
Bedford	2,357	2,444	3,000	3,261	3,229	3,469
Berks	13,388	13,114	12,429	13,983	15,465	17,730
Blair	7,551	7,940	8,126	9,245	9,821	11,153
Bradford	2,789	2,967	3,330	3,858	4,175	4,459
Bucks	7,258	7,512	7,862	10,083	11,253	12,071
Butler	5,472	5,592	6,048	6,816	7,292	8,182
Cambria	12,888	13,095	13,845	15,357	15,540	17,415
Cameron	360	375	389	473	579	648
Carbon	3,298	3,528	3,305	3,428	3,713	4,178
Centre	4,719	3,293	3,695	4,008	3,348	5,085
Chester	9,005	8,559	9,070	10,263	11,293	12,284
Clarion	2,434	2,789	2,773	2,870	2,939	3,344
Clearfield	5,184	5,722	6,076	6,483	6,797	7,380
Clinton	2,007	2,218	2,288	2,466	2,729	3,159
Columbia	3,007	2,876	3,026	3,540	3,819	4,216
Crawford	4,287	4,320	4,897	5,886	6,051	6,502
Cumberland	5,991	5,088	5,086	6,013	6,751	7,732
Dauphin	9,605	9,749	9,765	11,499	13,130	14,948
Delaware	20,530	20,074	20,510	27,096	31,120	34,373
Elk	2,098	2,247	2,195	2,318	2,435	2,887
Erie	11,444	11,108	12,163	14,610	16,230	18,335
Fayette	11,031	12,077	12,964	13,996	14,101	15,995
Forest	298	327	367	400	386	420
Franklin	4,498	4,200	4,420	5,320	5,821	6,295
Fulton	557	701	885	905	946	954
Greene	2,818	3,020	3,199	3,275	3,439	3,792
Huntingdon	2,996	2,842	2,734	3,015	3,262	3,519
Indiana	4,954	5,007	5,341	5,774	6,059	6,520
Jefferson	2,981	2,981	3,315	3,454	3,486	4,016
Juniata	927	946	1,031	1,176	1,263	1,375
Lackawanna	14,122	12,548	13,790	14,785	15,923	17,567
Lancaster	13,104	13,032	13,265	15,417	17,068	19,144
Lawrence	5,866	5,568	5,831	6,916	7,454	8,371
Lebanon	4,752	4,690	4,745	5,563	6,070	6,794
Lehigh	10,335	9,812	9,822	11,544	12,520	14,184
Luzerne	22,671	22,877	21,898	23,513	25,155	27,480
Lycoming	5,141	5,184	5,498	6,346	6,972	7,925
McKean	3,226	3,648	3,607	3,829	4,000	4,632
Mercer	6,245	6,077	6,242	7,525	8,170	9,007
Mifflin	2,612	3,053	2,970	3,226	3,419	3,788
Monroe	1,873	1,652	1,698	1,957	2,297	2,448

Appendix II—COLLEGE AGE POPULATION (18 THRU 21 YEARS) PROJECTED BY COUNTY FOR THE YEARS (1960, 1962, 1965 and 1967)—Continued

County	1952	1954	1960	1962	1965	1967
Montgomery	17,789	16,680	17,903	21,994	24,300	26,257
Montour	730	922	855	871	980	1,054
Northampton	10,076	9,063	9,188	11,241	12,161	13,811
Northumberland	6,572	6,999	7,112	7,474	8,038	8,691
Perry	1,464	1,652	1,703	1,901	1,996	2,145
Philadelphia	101,794	96,207	100,362	106,918	128,627	143,667
Pike	308	423	449	452	471	569
Potter	840	1,104	1,122	1,253	1,288	1,388
Schuylkill	10,944	12,024	11,735	12,038	12,700	14,029
Snyder	1,522	1,440	1,452	1,573	1,713	1,805
Somerset	5,089	5,369	5,546	5,922	6,181	6,816
Sullivan	408	437	434	514	506	579
Susquehanna	1,762	2,036	2,112	2,257	2,534	2,723
Tioga	2,261	2,074	2,334	2,588	2,723	3,037
Union	1,709	1,368	1,200	1,348	1,447	1,470
Venango	3,576	3,758	4,152	4,363	4,687	5,216
Warren	2,064	2,223	2,413	2,801	2,823	3,054
Washington	11,472	11,885	12,628	14,571	14,758	16,570
Wayne	1,460	1,642	1,544	1,709	1,847	2,027
Westmoreland	16,613	16,666	18,552	20,765	21,880	25,160
Wyoming	1,143	1,112	1,151	1,190	1,265	1,367
York	10,699	11,280	11,230	13,184	14,523	16,175

Appendix III—STUDENT ENROLLMENTS IN PENNSYLVANIA EDUCATIONAL INSTITUTIONS BY COUNTIES AND TYPES OF INSTITUTIONS, 1955-56

	ENROLLMENTS		
County	State Teachers Colleges	State-Aided Institutions	Non-Public Supported Institutions
Adams	85	44	50
Allegheny	1,008	5,314	2,585
Armstrong	236	155	126
Beaver	196	280	1,770
Bedford	76	56	63
Berks	428	387	853
Blair	164	249	305
Bradford	144	89	76
Bucks	208	334	370
Butler	222	148	370
Cambria	455	384	363
Cameron	10	25	10
Carbon	103	95	145
Center	95	792	47
Chester	401	349	327
Clarion	222	64	66
Clearfield	143	178	93
Clinton	243	75	27
Columbia	228	73	62
Crawford	212	89	137
Cumberland	269	156	273
Dauphin	262	283	606
Delaware	601	1,136	1,526
Elk	92	65	91
Erie	334	230	1,025
Fayette	303	171	225
Forest	7	7	5
Franklin	210	74	101
Fulton	25	11	4
Green	35	32	208
Huntingdon	75	59	117
Indiana	500	114	74
Jefferson	122	95	58
Juniata	10	15	19
Lackawana	221	318	1,603
Lancaster	467	256	775
Lawrence	115	129	570
Lebanon	103	118	304
Lehigh	323	272	789
Luzerne	426	483	2,370
Lycoming	150	183	534
McKean	110	95	75
Mercer	172	163	515
Mifflin	104	75	75
Monroe	169	61	48
Montgomery	330	1,424	1,413
Montour	31	22	27
Northampton	355	241	861
Northumberland	225	206	278

Perry	14	19	42
Philadelphia	832	6,469	2,707
Pike	16	21	8
Potter	59	24	15
Schuylkill	264	317	326
Snyder	40	32	75
Somerset	146	122	71
Sullivan	12	8	10
Susquehanna	57	64	47
Tioga	211	38	26
Union	47	34	105
Venango	115	65	153
Warren	72	78	66
Washington	489	303	220
Wayne	46	56	74
Westmoreland	618	651	924
Wyoming	33	31	33
York	265	259	547
TOTAL	14,361	24,240	32,867

Appendix IV—PENNSYLVANIA COLLEGE ENROLLMENT BY FINANCIAL SOURCE OF THE INSTITUTION, 1930-54

Year	State-Aided Colleges and Universities	State Colleges	Private	Total
1930	34,745	10,170	25,343	70,258
1931	25,527	10,408	25,654	61,589
1932	24,810	9,659	25,007	59,476
1933	23,370	8,549	23,891	55,810
1934	23,768	8,125	24,338	56,231
1935	25,556	8,381	25,455	59,392
1936	26,169	8,622	27,869	62,110
1937	27,312	8,072	28,052	63,436
1938	28,684	8,798	29,173	66,655
1939	29,054	9,007	29,426	67,487
1940	28,730	8,655	29,459	66,844
1941	26,738	7,315	28,484	62,537
1942	26,532	5,978	21,709	54,288
1943	16,398	3,948	18,440	38,786
1944	17,900	3,916	18,686	40,502
1945	27,446	6,328	31,670	65,441
1946	42,613	10,816	52,818	106,247
1947	43,051	11,960	57,406	112,417
1948	47,056	12,231	59,029	118,316
1949	48,210	13,260	56,280	117,750
1950	46,222	12,457	46,485	107,955
1951	43,699	11,094	46,046	100,839
1952	34,736	10,843	46,759	92,374
1953	36,202	10,019	50,682	96,903
1954	37,015	9,222	55,576	101,813

Appendix V—TOTAL OPENING (FALL) COLLEGE ENROLLMENT AND FIRST-TIME STUDENTS FOR THE UNITED STATES, PENNSYLVANIA, AND SELECTED STATES, AND PERCENT OF CHANGE, 1954, 1955

	Fall Enrollment			First-Time Students		
	1955	1954	Percent Change	1955	1954	Percent Change
United States (Aggregate)	2,720,929	2,499,750	+8.8	689,635	642,420	+7.3
United States (Continental)	2,695,340	2,477,847	+8.8	682,639	636,208	+7.3
PENNSYLVANIA	153,638	139,050	+10.5	33,618	32,796	+1.1
New York	314,291	291,610	+7.8	59,899	55,278	+8.4
New Jersey	56,611	51,577	+9.8	12,973	11,098	+16.9
Ohio	131,590	121,404	+8.4	32,215	30,158	+6.8
Maryland	39,386	36,925	+6.7	8,528	7,860	+8.5
West Virginia	23,313	20,453	+14.0	6,871	5,929	+15.9
Delaware	5,574	5,119	+8.9	982	867	+13.3

Source: Opening (Fall) Enrollment in Higher Edducational Institutions, 1955. U. S. Department of Health, Education. Circular 460. Table IX, p. 13, (adapted December, 1955.

Appendix VI—GAINS AND LOSSES IN STUDENT MIGRATION, HIGHER EDUCATION, BETWEEN PENNSYLVANIA AND SELECTED STATES 1930, 1940, 1950

Students	Attending Colleges and Universities in Pennsylvania			Pennsylvania Students Attending Colleges and Universities			Net Gains or Losses to Pennsylvania's Potential Enrollment		
	1930	1940	1950	1930	1940	1950	1930	1940	1950
California	99	87	302	116	211	597	17	124	295
Delaware	464	424	807	45	22	591	419	404	591
District of Columbia	222	204	358	951	1,006	2,788	729	802	2,430
Illinois	223	258	357	568	663	1,292	345	405	935
Indiana	1,531	131	155	136	616	1,608	17	485	1,453
Maryland	566	566	1,110	1,259	827	2,008	693	261	898
Massachusetts	432	579	889	1,433	1,361	2,006	1,001	782	1,117
New Jersey	4,295	5,008	11,326	915	722	1,461	3,380	4,286	9,865
New York	2,761	3,689	6,860	2,809	2,377	5,503	48	1,312	1,357
North Carolina	153	172	259	352	722	842	199	550	583
Ohio	843	1,505	1,493	1,706	1,726	3,751	863	221	2,258
Virginia	193	180	337	509	888	1,141	316	708	804
West Virginia	325	622	568	453	531	1,229	128	91	661

Source: Residence and Migration of college students—(Federal Security Agency, Office of Education. Pamphlet No. 14 (1949-50); Pamphlet No. 98 (1939-40); Department of the Interior, Office of Education, Pamphlet No. 48, (1934).)

Appendix VII—PREDICTED TRENDS IN COLLEGE ENROLLMENTS, BY SEX AND TYPE OF EDUCATION 1900-1970

Year	UNDERGRADUATE Men	Women	Total	GRADUATE Men	Women	Total	TOTAL UNDERGRADUATE AND GRADUATE Men	Women	Total	Percent Increase over 1900
1900	16,336	6,011	22,347	1,147	426	1,573	17,483	6,437	23,920	.....
1910	18,054	10,318	28,372	1,341	523	1,864	19,395	10,841	30,236	26.40
1920	30,740	17,381	48,121	1,125	661	1,786	31,865	18,042	49,907	108.64
1930	42,250	23,048	65,298	2,519	2,441	4,960	44,769	25,489	70,258	193.72
1940	40,755	21,350	62,105	3,018	1,721	4,739	43,773	23,071	66,844	179.72
1950	68,289	27,065	95,354	9,449	2,255	11,704	77,738	29,320	107,058	179.45
1960	61,880	26,520	88,400	10,920	4,680	15,600	72,800	31,200	104,000	334.57
1965	75,072	33,728	108,800	13,248	5,952	19,200	88,320	39,680	128,000	435.11
1970	80,920	38,080	119,000	14,280	6,720	21,000	95,200	44,800	140,000	501.12

Appendix VIII—STUDENT ENROLLMENT IN INSTRUCTIONS OF HIGHER EDUCATION LEGALLY AUTHORIZED TO GRANT DEGREES, PENNSYLVANIA, 1955-56

INSTITUTION	TOTAL ENROLLMENT Fall 1955	Fall 1956	FRESHMAN ENROLLMENT Fall 1955	Fall 1956
Academy of New Church	88	74	46	31
Albright College	713	690	224	208
Allegheny College	1,056	1,080	325	332
Alliance College	192	215	79	96
Beaver College	564	631	205	208
Bryn Mawr College	803	798	164	169
Bucknell University	2,033	2,081	612	619
Carnegie Institute of Technology	3,102	3,282	797	789
Cedar Crest College	438	485	159	180
Chatham College	445	444	159	143
Chestnut Hill College	426	460	120	140
College Misericordia	570	608	142	192
Dickinson College	881	920	288	291
Drexel Institute of Technology	6,554	6,888	811	920
Dropsie College	107	116	.....	.....
Duquesne University	4,002	4,275	807	710
Eastern Baptist College	195	225	64	76
Eastern Baptists Theological Seminary	175	178	74	69

Appendix VIII—STUDENT ENROLLMENT IN INSTRUCTIONS OF HIGHER EDUCATION LEGALLY AUTHORIZED TO GRANT DEGREES, PENNSYLVANIA, 1955-56—Continued

INSTITUTION	TOTAL ENROLLMENT Fall 1955	TOTAL ENROLLMENT Fall 1956	FRESHMAN ENROLLMENT Fall 1955	FRESHMAN ENROLLMENT Fall 1956
Elizabethtown College	480	550	184	192
Franklin & Marshall College	1,182	1,234	348	314
Gannon College	1,244	1,351	309	339
Geneva College	834	853	319	263
Gettysburg College	1,403	1,399	376	423
Grove City College	1,270	1,295	483	441
Gwynedd-Mercy Junior College	121	150	78	78
Harcum Junior College	160	214	93	132
Haverford College	465	458	124	123
Hershey Junior College	151	151	88	91
Immaculata College	467	540	192	192
Juniata College	668	730	212	245
Keystone Junior College	245	274	149	164
King's College	797	869	269	250
Lafayette College	1,536	1,600	500	466
LaSalle College	3,136	3,520	815	915
Lebanon Valley College	738	786	183	185
Lehigh University	3,234	3,264	694	706
Lincoln University	288	318	98	92
Lycoming College	843	816	364	242
Marywood College	717	793	202	230
Mercyhurst College	340	387	88	110
Messiah College	112	126	43	52
Moravian College	667	741	209	210
Mt. Aloysius Junior College	112	122	63	70
Mt. Mercy College	380	414	121	141
Muhlenberg College	828	887	259	243
Penn Hall Junior College	124	138	81	95
Pennsylvania Military College	719	701	215	237
Pennsylvania State College of Optometry	167	156	32	36
Pennsylvania State University	15,352	16,045	4,878	5,111
Philadelphia College of Osteopathy	380	372	87	91
Philadelphia College of Pharmacy and Science	725	655	213	195
Philadelphia Textile Institute	356	354	104	108
Rosemont College	401	431	116	151
St. Francis College	694	830	301	315
St. Joseph's College	2,676	2,851	402	361
Seton Hill College	606	571	180	163
State Teachers College, Bloomsburg	936	1,079	376	438
State Teachers College, California	1,125	1,226	443	395
State Teachers College, Cheyney	526	616	183	178
State Teachers College, Clarion	673	688	234	213
State Teachers College, E. Stroudsburg	1,003	1,048	243	257
State Teachers College, Edinboro	636	769	298	274
State Teachers College, Indiana	1,868	2,193	711	894
State Teachers College, Kutztown	909	921	393	328
State Teachers College, Lock Haven	741	782	292	252
State Teachers College, Mansfield	638	694	233	234
State Teachers College, Millersville	1,149	1,235	474	349
State Teachers College, Shippensburg	931	1,066	339	305
State Teachers College, Slippery Rock	920	901	340	305
State Teachers College, West Chester	1,895	1,930	502	485
Susquehanna University	475	502	184	178
Swarthmore College	892	904	233	257
Temple University	18,334	18,756	1,215	1,337
Thiel University	548	657	224	274
University of Pennsylvania	15,926	16,479	1,230	1,233
University of Pittsburgh	10,136	14,000	.....	.....

Appendix VIII—STUDENT ENROLLMENT IN INSTITUTIONS OF HIGHER EDUCATION LEGALLY AUTHORIZED TO GRANT DEGREES, PENNSYLVANIA—Continued.

INSTITUTION	TOTAL ENROLLMENT Fall 1955	TOTAL ENROLLMENT Fall 1956	FRESHMAN ENROLLMENT Fall 1955	FRESHMAN ENROLLMENT Fall 1956
University of Scranton	1,865	1,963	374	373
Ursinus College	719	722	208	200
Villa Maria College	312	340	63	62
Villanova University	3,200	3,260	1,130	1,070
Washington & Jefferson College	647	674	247	240
Waynesburg College	756	815	261	344
Westminster College	1,081	1,085	318	331
Westminster Theological Seminary	74	72	.....	.....
Wilkes College	873	1,011	352	361
Wilson College	358	402	115	141
TOTAL	137,045	147,177		

Appendix IX—STUDENT ENROLLMENTS IN 115 EDUCATIONAL INSTITUTIONS, PENNSYLVANIA, 1950-51, 1955-56, WITH ANTICIPATED ENROLLMENTS FOR 1960-61 AND 1965-66

A. SUMMARY ENROLLMENT TOTAL BY SCHOOL

	1950-51	1955-56	1960-61	1965-66
UNDERGRADUATE				
Male	104,322	100,746	119,540	131,312
Female	49,223	53,752	63,581	70,797
Totals	153,545	154,498	183,121	202,109
GRADUATE				
Male	18,364	19,015	21,662	24,736
Female	6,946	7,696	9,689	11,647
Totals	25,310	26,711	31,351	36,383
PROFESSIONAL				
Male	9,348	8,609	9,687	10,474
Female	1,556	1,501	1,758	2,094
Totals	10,904	10,110	11,445	12,586
SPECIAL				
Male	14,204	14,077	16,267	18,161
Female	8,032	9,365	10,580	11,545
Totals	22,236	23,442	26,847	29,706
GRAND TOTALS				
Male	146,283	142,447	167,156	184,683
Female	65,757	72,314	85,608	96,083
Totals	211,995	214,761	252,764	280,784
B. FULL TIME ENROLLMENT				
Male	67,724	69,356	79,638	85,580
Female	26,396	29,453	35,904	39,462
Totals	94,120	98,809	115,542	125,042
GRADUATE				
Male	3,360	3,053	3,569	4,125
Female	791	755	1,084	1,516
Totals	4,151	3,808	4,653	5,641
PROFESSIONAL				
Male	9,981	8,352	9,384	10,089
Female	1,379	1,305	1,540	1,852
Totals	10,460	9,657	10,924	11,941
SPECIAL				
Male	944	1,027	1,570	2,099
Female	976	1,188	1,429	1,749
Totals	1,920	2,215	2,990	3,848
GRAND TOTALS				
Male	81,109	81,788	94,161	101,893
Female	29,542	32,701	39,957	44,579
Totals	101,651	114,489	134,109	146,472
C. PART-TIME ENROLLMENT				
UNDERGRADUATE				
Male	11,234	11,323	14,287	16,511
Female	8,008	8,241	8,926	11,027
Totals	19,242	19,564	23,213	27,538
GRADUATE				
Male	7,318	9,516	10,928	12,761
Female	2,739	3,028	3,615	4,526
Totals	10,057	12,554	14,543	17,287
PROFESSIONAL				
Male	108	117	108	120
Female	155	136	131	137
Totals	263	253	239	257
SPECIAL				
Male	8,751	8,643	9,732	10,567
Female	3,412	4,173	4,555	4,745
Totals	12,163	12,816	14,287	15,312
GAND TOTALS				
Male	27,411	29,599	35,055	39,959
Female	14,314	15,578	17,227	20,435
Totals	41,725	45,177	52,282	60,394

D. EXTENSION ENROLLMENT

UNDERGRADUATE				
Male	1,593	2,161	2,410	3,851
Female	2,111	2,918	2,985	3,368
Totals	3,705	5,079	5,395	6,219
GRADUATE				
Male	311	398	400	410
Female	286	320	320	330
Totals	597	718	720	740
SPECIAL				
Male	771	285	230	250
Female	401	238	260	300
Totals	1,172	523	490	550
GRAND TOTALS				
Male	2,675	2,844	3,040	3,511
Female	2,798	6,320	3,565	3,998
Totals	5,473	6,320	6,605	7,509
GRADUATE PROFESSIONALS (Full time, Part time, and Extensions)				
Male	689	801	931	99
Female	55	51	99	118
Totals	744	852	1,030	1,262

E. SUMMER SESSION ENROLLMENT

UNDERGRADUATE				
Male	23,771	17,906	23,205	26,370
Female	12,708	13,146	15,766	16,940
Totals	36,479	31,046	38,971	43,310
GRADUATE				
Male	7,375	6,048	6,765	7,440
Female	3,130	3,572	4,670	5,275
Totals	10,505	9,620	11,435	12,715
PROFESSIONAL				
Male	159	140	195	265
Female	22	60	87	123
Totals	181	200	282	388
SPECIAL				
Male	3,738	4,126	4,735	5,245
Female	3,243	3,762	4,345	4,750
Totals	6,981	7,888	9,080	9,995
GRAND TOTALS				
Male	35,043	28,220	34,900	39,320
Female	19,103	20,530	24,868	27,088
Totals	54,146	48,754	59,768	66,408

F. SUMMARY TOTAL ENROLLMENTS BY TYPE OF ATTENDANCE

FULL TIME				
Male	81,109	81,788	94,161	101,893
Female	29,542	32,701	39,948	44,579
Totals	101,651	114,489	134,109	146,472
PART TIME				
Male	27,411	29,599	35,055	39,959
Female	10,902	15,578	17,227	20,435
Totals	38,313	45,177	52,282	60,394
EXTENSION				
Male	2,671	2,844	3,040	3,511
Female	2,802	3,476	3,565	3,998
Totals	5,473	6,320	6,605	7,509
SUMMER SCHOOL				
Male	35,043	28,220	34,900	39,320
Female	19,103	20,545	24,868	27,088
Totals	54,146	38,765	59,768	66,408
GRADUATE PROFESSIONAL				
Male	689	801	931	1,144
Female	55	51	99	118
Totals	744	852	1,030	1,262
GRAND TOTALS				
Male	146,283	142,447	167,156	184,683
Female	65,757	72,314	85,608	96,083
Totals	211,995	214,761	252,764	280,794

Appendix X—Earned Degrees of Faculties, Pennsylvania Colleges and Universities, 1955-56.
(66 Institutions Reporting)

Baccalaureate		Masters	Doctors	None	Total	%Bachelors	%Masters	%Doctors	%None
Professor	84	264	775	9	1,132	7.4	23.3	68.5	.8
Associate Professor	61	493	366	12	932	6.5	52.9	39.3	1.3
Assistant Professor	113	787	299	11	1,210	9.3	65.0	24.7	.9
Instructor	366	538	91	53	1,048	34.9	51.3	8.7	.5
Assistant	116	39	13	32	200	58.0	19.5	6.5	16.0
Lecturer	67	92	61	21	241	27.8	38.2	25.3	8.7
Total	807	2,213	1,605	138	4,763	16.9	46.5	33.7	2.9

Appendix XI—Educational Space Facilities, Pennsylvania Colleges and Universities

Average Square Feet per Student	Number	1955-56 Sq Ft.	In Process Capacity	In Process Number	In Process Sq. Ft.	In Process Capacity	1955-56 Plus In Process Number	1955-56 Plus In Process Sq. Ft.	1955-56 Plus In Process Capacity
College Reporting ..	(79)	(79)	(79)	(20)	(20)				
Class Rooms 17	2,747	2,165,179	122,833	190	142,163	8,362	2,937	2,307,342	125,770
College Reporting ..	(77)	(77)	(77)	(14)	(14)				
Laboratories 57	1,760	1,966,601	34,428	175	122,044	2,158	1,935	2,088,045	36,586
College Reporting ..	(22)	(22)	(22)	(2)	(2)				
Shops 78	142	146,925	1,875	3	2,960	37	145	149,885	1,912
College Reporting ..	(72)	(72)		(19)	(19)				
Faculty Offices	3,910	942,986		164	28,614		4,074	917,600	

% Increase over 1955-56			Anticipated			1955-56 Plus in Process and Anticipated			% Increase over 1956		
Number	Sq. Ft.	Capacity	Number	Sq. Ft.	Capacity	Number	Sq. Ft.	Capacity	Number	Sq. Ft.	Capacity
			(20)	(27)		3,764	2,958,291	164,061	36.4	36.5	38.0
6.9	6.6	6.8	809	650,949	38,291						
			(21)	(21)							
9.9	6.2	6.3	530	469,816	8,245	2,465	2,558,461	44,831	40.1	30.1	30.2
			(9)	(9)							
2.1	1.3	2.0	35	41,734	535	180	191,619	2,447	26.8	30.4	30.5
			(24)	(24)							
4.2			1,164	253,596		5,238	1,225,196		34.0	29.9	

Appendix XII—Residential Capacity and Space of Pennsylvania Colleges

	1955-56 Avg. Sq. Ft. Per Student	1955-56 Number Students	1955-56 Sq. Ft.	In Process Number Students	In Process Sq. Ft.	Total Process Number Students	Total Process Sq. Ft.	% Increase Over 1955-56 Number Students	% Increase Over 1955-56 Sq. Ft.
Number Reporting ...	(50)	(59)	(59)	(18)	(18)				
Male Dorms	167	18,454	3,082,409	3,563	633,678	22,017	3,716,087	19.3	30.6
Number Reporting ...	(50)	(61)	(61)	(21)	(21)				
Female Dorms	231	17,123	3,955,812	3,043	790,267	20,166	4,746,079	17.8	19.9
Number Reporting ...	(14)	(24)	(24)	(4)	(4)				
Fraternity	221	6,984	1,543,780	280	56,980	7,192	1,600,760	3.0	3.7
Number Reporting ...	(2)	(3)	(3)						
Sorority	656	306	200,720			306	200,720		
Number Reporting ...	(11)	(15)	(15)						
Married Quarters	459	312	143,320			312	143,320		

Anticipated Number Students	Anticipated Sq. Ft	Total Anticipated In Process 1955-56 Number Students	Total Anticipated In Process 1955-56 Sq. Ft	% Increase Over 1955-56 Number Students	% Increase Over 1955-56 Sq. Ft.
(27)	(27)				
8,056	1,473,631	30,073	5,189,718	36.6	39.6
(29)	(29)				
8,950	2,304,256	29,116	7,050,335	44.4	48.6
(4)	(4)				
390	72,510	7,582	1,673,270	5.4	4.5
		306	200,720		
(4)	(4)	706	295,012	126.2	05.8
394	151,692				

Appendix XIII—Cost of Education to the Student, Pennsylvania, 1944-45, 1949-50 and 155-56.

	Tuition and Fees			Room and Board			%Increase Over Previous Cost Average					
							Total			Tuition	Room and Board	Total
Institutions	Average	High	Low	Average	High	Low	Average	High	Low	Average	High	Low
Reporting-	(75)	(75)	(75)	(66)	(66)	(66)						
1944-45	$285	$600	$60	$385	$700	$112	$ 670	$1,300	$172			
1949-50	(79)	(79)	(79)	(68)	(68)	(68)						
	$370	$660	$60	$487	$775	$200	$ 857	$1,435	$260	%23	%21	%21.9
1955-56	(83)	(83)	(83)	(77)	(77)	(77)						
	$475	$880	$100	$608	$1,100	$200	$1,083	$1,980	$300	%22.2	%20	%21.9

Appendix XIV—SOURCES OF EDUCATIONAL AND GENERAL INCOME FOR HIGHER EDUCATION FOR DELAWARE, MARYLAND, NEW JERSEY, NEW YORK, OHIO, PENNSYLVANIA, WEST VIRGINIA, AND UNITED STATES, 9950. (In Thousands of Dollars)

	Student Fees	Veterans Fees	Other Federal	State Gov't	Local Gov't	Private Gifts	Endow-ment	All Others	Total
Delaware									
Amount	472	406	353	910	6	150	249	118	2,664
%	17.7	15.3	13.3	34.2	.2	5.6	9.3	4.4	100
Maryland									
Amount	5,591	4,357	8,539	7,552	323	2,550	1,745	3,249	33,906
%	16.5	12.8	25.2	22.3	1.	7.5	5.1	9.6	100
New Jersey									
Amount	9,192	7,140	2,309	6,461	419	2,882	2,836	1,047	31,836
%	28.9	22.4	7.2	20.3	1.3	9.1	7.5	3.3	100
New York									
Amount	62,417	39,481	23,629	25,312	14,864	14,491	17,498	14,450	212,142
%	29.4	18.6	11.2	11.9	7.	6.9	8.2	6.8	100
Ohio									
Amount	19,334	11,658	2,909	18,211	2,522	7,403	4,324	4,985	71,346
%	27.1	16.3	4.1	25.5	3.5	10.4	6.1	7.	100
Pennsylvania									
Amount	31,054	24,135	6,071	16,118	76	7,577	6,217	13,298	104,546
%	29.7	23.1	5.8	15.4	—	7.3	6.0	12.7	100
West Virginia									
Amount	2,809	1,777	923	8,274	—	200	195	407	14,585
%	19.3	12.2	6.3	56.7	—	1.4	1.3	2.8	100
United States									
Amount	394,610	307,326	198,480	491,958	61,373	118,626	96,341	146,613	1,815,826
%	21.7	16.9	11.0	27.0	3.3	6.6	5.4	8.1	100

Source: Table 71. Higher Education in the Forty Eight States (The Council of State Governments)

Appendix XV—REPORT ON TUITION, FEES, ROOM AND BOARD

INSTITUTION	TUITION	ADDITIONAL FEES	PROPOSED TUITION 1956-57	PROPOSED FEES 1956-57	ROOM	BOARD	PROPOSED ROOM 1956-57	PROPOSED BOARD 1956-57
Albright	$575	$2-$40 $50 Lab.	$625	Same	$170	$350	Same	Same
Allegheny	$645	——	$750	——	$190	$380	Same	Same
Alliance	$310	$1-$30	$400	Same	Min. $128 Max. $146	$370	Min. $110 Max. $190	Same
Beaver	$650	$35	$700	Same	Min. $600 Max. $750	$400	Min. $600 Max. $800	Same
Bryn Mawr	$850	$30	Same	Same	Min. $1,000 Max. $1,200		Same	
Bucknell	$600	$60-$85	$700	$150	Min. $ 80 Max. $250	$400	Min. $150 Max. $250	Same
Carnegie Institute	$680—Engr. & Arts $580 Margaret Morrison	None	$800—Engr. & Arts $700 Margaret Morrison	None	Men Min. $150 Max. $306	Women $700	Men Women None Min. $170 Max. $350	None
Cedar Crest	$550	$50 $80 Home Ec.	$600	Same	Min. $ 700 Max. $1,050		Min. $ 750 Max. $1,050	
Chatham	$700	$30 Activities	$800	$36 Activities		$850	$900	
Chestnut Hill	$500	$50	$600	Same	Min. $150 Max. $300	$550	Same	Same
College Misericordia	$300	$70	Same	Same	$150	$500	Same	Same
Dickinson	$650	$50	$700	Same	Min. $180 Max. $250	$408	Same	Same
Drexel Institute	$550—Home Ec. $560—Bus. Ad. $625—Engr. $100		Same	Same	Men Min. $180 Max. $235 Women Min. $650 Max. $685	Men $540	Same	Same
Duquesne	$544	$36	Same	Same	Men Min. $130 Max. 150 Women Min. $250 Max. $350	$400 $400	Same	Same
Eastern Baptist	$400	$113	$450	Same	Min. $160 Max. $180	$336	Same	$352
Elizabethtown	$450	$50	$500	Same	$136	$289	Min. $170 Max. $221	$340
Franklin & Marshall	$650	$18.50	$750	Same	Min. $70 Max. $90	$720	Min. $ 70 Max. $100	Same
Gannon	$480	$15	$512	Same	$128	——	Same	——
Geneva	$430	$6-25	$480	Same	Min. $ 90 Max. $150	$360	$150	Same
Gettysburg		$625		$725	Min. $ 70 Max. $150	$400	Min. $ 70 Max. $200	Same
Grove City	$350	$16 $24	Same	Same	Min. $558 Max. $657		Same	
Haverford	$750	$115	$850	Same	$250	$470	Same	Same
Immaculate	$500	$65	Same	Same	Min. $150 Max. $200	$500	Min. $200 Max. $300	$600
Juniata	$500	$50 + lab.	$550	Same	Min. $140 Max. $160	$330	Same	Same
King's	$450	——	$470	——	Min. $170 Max. $250	$400	Same	Same
Lafayette	$900	——	Same	——	Min. $160 Max. $250	Cafe- teria	Same	——
LaSalle	$450	$60	Same	Same	Min. $750 Max. $775		Same	
Lebanon Valley	$535	$50	$600	Same	Min. $125 Max. $150	$350	Min. $155 Max. $170	$375
Lehigh	$725—A.&S. $800—Engr.	——	$900	$100 Engr.	Min. $100 Max. $160—Single $320—Double	——	Same	——
Lincoln	$350	$60	Same	Same	Min. $150 Max. $128	$340	$150	Same

INSTITUTION	TUITION	ADDITIONAL FEES	PROPOSED TUITION 1956-57	PROPOSED FEES 1956-57	ROOM	BOARD	PROPOSED ROOM 1956-57	PROPOSED BOARD 1956-57
Lycoming	$500	$35-$70	Same	Same	Min. $150 Max. $200	$400	Same	Same
Marywood	$350	$100	$450 $475	——	Min. $110 Max. $215	$450	Same	Same
Mercyhurst	$325	$75	Same	$85	Min. $100 Max. $200	$450	Same	$500
Messiah	$390	$9.50	Same	$19	Min. $100 Max. $180	$288	Same	Same
Moore Institute	$330	$35-$50	$400	$75	Min. $625 Max. $750		Same	
Moravian	$550	$50	$600	Same	Men $150 Women $275	$400	Same	Same
Mount Mercy	$450	$25-$40	Same	Same	$120	$380	Same	Same
Muhlenberg	$570	$80 + lab.	$700	None	Min. $100 Max. $170	$270 5-day week	Min. $150 Max. $220	Same
National Agricultural	$500	$80	Same	$93	$120	$360	Same	Same
Penna. Military	$650—Day $800—Boarding	$100	Same	Same	$690		Same	
Penn State	None	$252	——	$280	Min. $130 Max. $250	$460	Min. $140 Max. $260	$470
Phila. Col. of Pharmacy	$530	$70	Same	Same	No Dormitories			
Rosemont	$600	$50	Same	Same	$300	$600	Same	Same
Seton Hill	$450	$75	$500	Same	Min. $ 75 Max. $225	$450	Same	Same
St. Francis	$448	$96	Same	$98	$584		$590	
St. Joseph's	$450	$50	$500	Same	Min. $550 Max. 730		Same	
St. Vincent	$550	$65	Same	Same	Min. $110 Max. $170	$380	Same	Same
Susquehanna	$512 $550—Music	$35	Same	Same	Min. $100 Max. $140	$320	Same	Same
Swarthmore	$800	$125	Same	Same	$275	$450	Same	Same
Temple	$420	$135	Same	Same	Min. $175 Max. $300	Cafe- teria	Same	——
Thiel	$480	$50	Same	Same	$160	$400	Same	Same
University of Penna.	$800	$135	Same	Same	Min. $ 150 Max. $1000	$600 aver.	Same	Same
University of Pittsburgh	$480—Undergraduate $544—Engr. $25-70 Others vary		Same	Same	Min. $180 Max. $250	$50	Same	Same
University of Scranton	$500	$15-$20 + lab.	Same	$65-$30 + lab.	$239.25	$288.75 5-day week	Same	
Ursinus	$600	$15	Same	Same	Min. $190 Max. $300	$400	Same	Same
Villa Maria	$350	$50	Same	Same	Min. $100 Max. $200	$500	Min. $100 Max. $250	Same
Villanova	$580—C.&F. $620—Science $640—Engr.	$70	Same	Same	$800		Same	
Washington & Jefferson	$550	$60	$600	Same	Min. $175 Max. $325	$375	Same	Same
Waynesburg	$320	$45	$340	$45.50	$136	$342	$144	$360
Westminster	$515	$17.50	$615	Same	Min. $120 Max. $160	$380	Same	Same
Wilkes	$500	$15 lab.	$550	Same	$600		$650	
Wilson	$750	——	Same	——	$240	$580	Same	Same

Source: Pennsylvania Association of Colleges and Universities
State Theatre Building, Harrisburg, Pennsylvania

Appendix XVI—INCOME AND ENDOWMENTS OF ACCREDITED COLLEGES AND UNIVERSITIES*

	1948-49	1949-50	1950-51	1951-52	1952-53
AMOUNT PRODUCTIVE ENDOWMENT	$155,988,096	$163,620,566	$173,809,574	$174,855,376	$190,607,435
INCOME					
ENDOWMENTS	$ 5,663,138	$ 6,386,176	$ 7,690,221	$ 7,608,789	$ 8,368,090
STATE	9,118,063	11,362,259	11,762,150	16,470,560	16,832,113
GIFTS	14,871,589	14,489,586	13,880,822	12,925,033	13,594,607
TUITION & FEES	52,980,323	55,869,171	47,817,236	46,212,157	47,652,609
OTHER	40,297,969	38,496,089	40,671,313	40,451,576	45,788,469
TOTAL INCOME	$122,931,082	$126,603,281	$121,821,742	$123,668,115	$132,235,890
ENROLLMENT	106,085	104,490	95,498	72,984	73,273
ACTUAL ENROLLMENT OF STATE	118,283	117,750	107,995	100,839	99,859
EXPENDITURES OF ACCREDITED COLLEGES AND UNIVERSITIES*					
ADMINISTRATION	$ 12,449,877	$ 9,632,207	$ 10,097,596	$ 10,780,613	$ 11,879,852
INSTRUCTION	43,311,838	53,809,372	58,980,731	58,865,905	63,901,865
REPAIRS	7,704,989	6,359,319	7,681,585	7,403,266	8,230,801
CAPITAL OUTLAY	10,479,903	10,229,895	9,769,798	8,239,496	7,020,254
OTHER	40,576,455	40,392,423	36,811,300	39,077,385	40,944,935
TOTAL	114,523,062	120,423,216	123,341,010	124,366,665	131,977,707

BULLETIN 73, DEPARTMENT OF PUBLIC INSTRUCTION
STATISTICAL REPORT OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

*70 private institutions, exclusive of State Teachers Colleges.

Appendix XVII—THE COMMONWEALTH'S SHARE-STATE TEACHERS COLLEGES

Biennium	Insitutional Receipts 1	Expenditures from Appropriations	Total Maintenance Expenditure 1	The Commonwealth's Share, per cent of Total
1933-35	$4,018	$3,245	$7,263	45%
1935-37	4,197	3,011	7,208	42
1937-39	4,396	3,697	8,093	46
1939-41	4,703	3,761	8,464	44
1941 43	4,350	4,015	8,365	48
1943-45	5,083	3,990	9,073	44
1945-47	6,708	4,592	11,300	41
1947-49	11,673	6,932	18,605	37
1949-51	10,909	8,820	19,729	45
1951-53	9,252	11,188	20,440	55
1953-55	8,999[2]	13,365[2]	22,364[2]	60[2]

1 in Thousands.
2 Estimated.

Appendix XVIII—STATISTICAL SUMMARY, HIGHER EDUCATION IN U.S., PENNSYLVANIA AND SELECTED STATES, 1952

		N. Y.	Calif.	Pa.	Ill.	U.S.
Value of Plant (In thousands)	Value	$568,488	$518,130	$408,294	$401,069	$6,755,915
	Rank	1	2	3	4	.....
	% of U.S.	8	7.6	6.	5.8	.....
Enrollment	Number	312,522	215,798	137,181	37,030	2,301,884
	Rank	1	2	3	4	.....
	% of U.S.	13.5	9.3	5.5	5.4	.....
Endowment* & all non-expendable funds except student loans	Value	$400,861	$173,165	$175,574	$207,823	$2,943,170
	Rank	2	6	5	4	.....
	% of U.S.	13.6	5.8	5.9	7.0	.....
Student Loan Funds **	Value	$3,362	$2,250	$2,342	$2,095	$46,784
	Rank	2	5	4	8	.....
	% of U.S.	7.1	4.8	5.0	4.4	.....
INCOME: Current Operations ***	Value	$245,191	$257,012	$139,788	$185,538	$2,512,451
	Rank	2	1	5	4	.....
	% of U.S.	9.7	10.1	5.5	7.3	.....
INCOME: Non-expendable Funds ****	Value	$16,208	$12,337	$8,811	$7,847	$464,308
	Rank	3	4	6	7	.....
	% of U.S.	9.8	7.5	5.3	4.7	.....
FOR: Plant Expansion *****	Value	$30,009	$34,122	$15,259	$27,623	$355,614
	Rank	2	1	6	3	.....
	% of U.S.	8.4	9.6	3.2	7.7	.....
EXPENDITURES: Current Operations ******	Value	$239,907	$245,370	$136,875	$181,761	$2,471,008
	Rank	2	1	5	3	.....
	% of U.S.	9.7	9.9	5.5	7.3	.....
EXPENDITURES: Plant Expansion *******	Value	$37,280	$31,494	$23,161	$25,089	$403,317
	Rank	1	2	5	3	.....
	% of U.S.	9.2	7.8	5.7	6.2	.....

*Mass. first with $406,080,000 and Texas with $242,331,000.

**Mass. first with $4,747,000, Georgia third with $2,424,000, Tenn. sixth with $2,201,000 and Texas seventh with $2,171,000.

***Mass. third with $140,772.

****Texas first with $29,992,000, Mass. second with $23,268,000 and Conn. fifth with $11,877,000.

*****Texas fourth with $22,708,000 and Mich. fifth with $19,807.

******Mass. fourth with $137,149,000.

*******N. Carolina fourth with $24,938,000.

APPENDIX XIX FINANCING HIGHER EDUCATION IN PENNSYLVANIA TECHNICAL COMMENTS

A. "Of all the functions provided for in Pennsylvania's Budget, education is the largest in terms of growth and in percentage of total expenditures, currently accounting for approximately one-third. Among seven other states comparable in terms of population and industrial character (California, Illinois, Massachusetts, Michigan, New Jersey, New York and Ohio) only two spend a larger portion of their total budget for education than Pennsylvania; these are California and Michigan.

The total cost of education includes two principal items —state support of local public schools, and state support of higher educational institutions. In Pennsylvania education represents about 83 percent of total state payments to local governments. Pennsylvania state expenditures for the support of public schools through state aid to local governments has more than doubled in the post-war period of the past 10 years.

In Pennsylvania, the state currently assumes an approximate 43 percent share of the total state and local support of schools. In this respect, Pennsylvania ranks 19th among the 48 states and third among the eight leading large industrial states. In total current expenditures per pupil, state and local combined, Pennsylvania, with per pupil expenditure of $241 in the 1953-1954 school year, ranks 27 among the 48 states; in the eight largest states, Pennsylvania ranks seventh. Current trends and indications are that among all the functions provided for in Pennsylvania's state budget, education will continue to demand the greatest and fastest growing share of expenditures. By present legislation, this state is committed through 1960 to increase its subsidies to local governments by substantial amounts for costs of teacher salaries and other instructional expense. The present backlog and future needs for school buildings represent a major fiscal problem which undoubtedly will mean substantially increased demands on Pennsylvania's future state budgets.

In the field of the support of higher educational institutions Pennsylvania like most other states maintains a number of teachers colleges. Unlike most other states, the State of Pennsylvania rather than directly maintaining general institutions of higher education, except for Penn State, discharges this responsibility by providing direct subsidy payments to private colleges and universities. In total outlay for the support of higher education, Pennsylvania ranks 13th among the 48 states."

A more specific analysis of the problem was made by the Bureau of Business Research of the University of Pittsburgh. In "How is Higher Education Financed in Pennsylvania and other States, 1951-52," the analysts report:

B. SUMMARY OF MAJOR FINDINGS

1. As among the 48 states and the District of Columbia, Pennsylvania's institutions of higher education in 1951-52 ranked 3rd in total resident student enrollment and 5th in total current income, but 41st in total current income per student.

2. This unfavorable position was due primarily to the low level of state government contributions to current income per student in Pennsylvania.

a. Pennsylvania ranked 7th in total current income per student derived from tuition and student fees, including payments on behalf of veterans.

b. Pennsylvania ranked 5th in total current income per student derived from endowments and private benefactions.

c. But Pennsylvania ranked only 44th in total current income per student derived from the state government.

d. Moreover, Pennsylvania's total current income per student fell short of the national average by $94, while the state government's contributions to current income per student fell short of the national average by $97.

3. State government contributions to the current income of institutions of higher education represented a far more meager allocation of the state's resources in Pennsylvania than prevailed in most other states.

Pennsylvania's state government contributions to the current income of its institutions of higher education ranked 43rd in terms of dollars per capita of the state population; 45th in terms of its percentage of the total income payments received by individuals in the state; and 46th in terms of its percentage of the state government's total expenditures.

4. But the most serious of the financial disadvantages borne by institutions of higher education in Pennsylvania in 1951-52, as compared with similar institutions in other states, were those suffered by our universities.

The total current income per student of all institutions of higher education other than universities in Pennsylvania actually exceeded the national average for such institutions by $129, and exceeded by a somewhat greater margin the average for such institutions in six leading midwestern states—Indiana, Illinois, Iowa, Michigan, Wisconsin and Minnesota. On the other hand, the total current income per student for universities in Pennsylvania fell short of the national average of universities by $332, and fell short of the university average for the above six states by $697.

5. In the case of Pennsylvania's universities as well, the most important source of income disadvantage as compared with similar institutions elsewhere was the low level of state government contributions to current income per student.

a. Pennsylvania's state government contributions to the current income of institutions of higher education other than universities fell short of the national average for such institutions by $61 per student. But similar state aid to Pennsylvania's universities fell short of the national average for universities by $146 per student.

b. The combined income from tuition and fees, endowments and gifts, local government aid and non-tuition Federal funds per university student in Pennsylvania compared reasonably well with the comparable totals in the six midwestern states cited above—surpassing two and falling short of the others by $70 per student or less. But state government contributions to the current income of universities approximated $500 per student in Michigan, Indiana, Illinois and Wisconsin, and exceeded $800 per student in Minnesota and Iowa—as compared with Pennsylvania's $223 per student.

6. The growing need for higher education together with its rising cost forces each community to determine whether to provide the increased support required by colleges and universities or to force curtailment of the extent and quality of their services as a result of inadequate financing.

Higher education provides one the basic means of developing the specialized knowledge, technical skills and

cultural values which play a leading role in the development of all other resources. Hence, curtailing the contributions of higher education is quite likely to involve costly limitations on the progress of the community."

In conclusion, the study observed—

"Higher education constitutes one of the most fundamental means of developing the specialized knowledge, technical skills and cultural values which play a leading role in the development of all other resources. The cost of such services constitutes an investment which yields continuing returns of generous proportions to the community at large. Hence, limitations on the extent and quality of such educational contributions are likely to hinder the progress of the community.

Differences in the patterns of financing higher education seem to be due partly to the carryover effects of past conceptions of how such institutions should be supported. It is apparent, for example, that dependence on student fees and private benefactions is heaviest in the regions where colleges and universities were most widely established prior to the widespread acceptance of state government responsibility for contributing to the support of such institutions, i. e., in the New England and Middle Atlantic states.

But financing patterns have also been affected by the increasing need for higher education and by the increasing cost of providing it. Where student fees and private benefactions could not be increased sufficiently to meet the costs of providing desired levels of educational services to increasing numbers of students, it has been necessary either to limit the extent and quality of educational opportunities or to provide supplementary sources of financial support—generally through state governments, although Federal agencies and municipal governments have also provided some support.

In facing the problems of financing higher education, each community must develop workable compromises which accord with its own beliefs and resources. If the need for more and better higher education is accepted, the necessary support will be forthcoming—by whatever means seem to be most expedient to the particular community. If the needs of higher education are not understood, financial support is likely to be reluctant and inadequate. At any rate, both community resources and community beliefs, tend to change with time and, hence, one may expect continuing changes both in the level of support for higher education and in the patterns of financing it."

APPENDIX XX HIGHER EDUCATION IN PENNSYLVANIA—AN OVERVIEW

"American higher education is entering the most crucial period in its history. Within the next fifteen years we can expect at least a seventy percent increase in college enrollments, and we may have to provide for double the number of college students now enrolled.

It is probable that the colleges and universities in the State of Pennsylvania will be called upon to make provisions for an increased enrollment of from seventy-eight to one hundred percent by 1970. This probability, like all enrollment projections, is based on certain assumptions. To identify these assumptions, one must consider the trends of the past.

Between 1931 and 1949, Pennsylvania college enrollment doubled from 74,000 to 150,000. Since then it has declined from the post-war peak to a low of 121,000 in 1952 and since has risen to 139,000 (1954).

While enrollment has increased, the college-age population has decreased. In 1930, Pennsylvania had 690,000 residents of college age. By 1950, there were only 600,000 and by 1955, our researchers estimate the number had declined to about 580,000. This is the low point, and from now on the college-age population should rise rapidly.

In the twenty years before 1950, Pennsylvania had a net out-migration before college-age of about one out of every ten youth born in the state. If we assume that this rate of out-migration will continue, Pennsylvania will have about 585,000 eighteen-twenty-one year olds by 1960 and about 775,000 by 1970. If we assume there will be no out-migration, by 1960 Pennsylvania will have 620,000 and by 1970 about 870,000 youth eighteen-twenty-one. This is either a 34 percent increase or a 51 percent increase in the next fifteen years, depending on the assumption you make about migration.

What will these increases in college-age population mean for enrollment in Pennsylvania? In 1930 and in 1940, only about ten percent of Pennsylvania's youth attended college. By 1950, with enrollments accelerated by veterans, the number in college was about 25% of the 18-21 year olds. By 1955, even after the wave of veterans had subsided, this figure remained at 24%. This is slightly below the national average, and considerably below the average for some states. It seems a reasonable assumption that the percentage of college-age youth in college will increase at the same rate as the 1930-1955 increase in Pennsylvania. On this assumption college enrollment in Pennsylvania will increase 12 to 19% by 1960 and 78 to 100% by 1970. If we accept these assumptions, that the trend of the past 20 years in percentage of college-age youth in college will continue, Pennsylvania will have some 247,000 students in its colleges by 1970. The total enrollment in 1954 was 139,050.

In the past, four out of every five college students in Pennsylvania were enrolled in "independent" institutions. If this continues to be the case, the independent institutions of Pennsylvania can expect almost 200,000 students in 1970; a third again as many students as are now enrolled in all of Pennsylvania's higher institutions, both public and private."

Robert C. Anderson, Associate Director for Administration, The Southern Regional Education Board, addressing the Pennsylvania Association of Colleges and Universities, October 24, 1955.

BIENNIAL REPORT OF THE JOINT STATE GOVERNMENT COMMISSION—1955-1957 GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA—JANUARY 1957

Biennial Report

of the

Joint State Government Commission—1955-1957

Joint State Government Commission

Room 450, Capital Building

Harrisburg, Pennsylvania

The Joint State Government Commission was created by Act of 1937, July 1, P. L. 2460, as amended 1939, June 26, P. L. 1084; 1943, March 8, P. L. 13; 1956, May 15, P. L. (1955) 1605, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

JOINT STATE GOVERNMENT COMMISSION OFFICERS AND EXECUTIVE COMMITTEE—1955-1957

OFFICERS

Baker Royer, Chairman
Frank W Ruth, Vice Chairman
Albert W. Johnson, Secretary
Albert S. Readinger, Treasurer

EXECUTIVE COMMITTEE

SENATE MEMBERS:	HOUSE MEMBERS:
M. Harvey Taylor, President Pro Tempore	Hiram G. Andrews, Speaker
Rowland B. Mahany, Majority Leader	Albert S Readinger, Majority Leader
John H. Dent, Minority Leader	Charles C. Smith, Minority Leader
Albert R. Pechan, Majority Whip	James E. Lovett, Majority Whip
Frank W. Ruth, Minority Whip	Albert W. Johnson, Minority Whip
James S. Berger, Chairman, Majority Caucus	J. Dean Polen, Chairman, Majority Caucus
John J. Haluska, Chairman, Minority Caucus	Norman Wood, Chairman, Minority Caucus

Member Ex Officio:

Baker Royer, Commission Chairman

JOINT STATE GOVERNMENT COMMISSION
EXECUTIVE COMMITTEE
1957-1959

SENATE MEMBERS:	HOUSE MEMBERS:
M. Harvey Taylor, President Pro Tempore	W. Stuart Helm, Speaker
Rowland B. Mahany, Majority Leader	Albert W. Johnson, Majority Leader
John H. Dent, Minority Leader	Albert S. Readinger, Minority Leader
Albert R. Pechan, Majority Whip	Allen M. Gibson, Majority Whip
Frank W Ruth, Minority Whip	Hiram G. Andrews, Minority Whip
James S. Berger, Chairman, Majority Caucus	Norman Wood, Chairman Majority Caucus
Israel Stiefel, Chairman, Minority Caucus	Mary A. Varallo, Chairman Minority Caucus

TABLE OF CONTENTS

	Page
Joint State Government Commission Officers and Executive Committee, 1955-1957	iii
Executive Committee, 1957-1959	iv
Introduction	vii
Branch Banking	1
Comparative Study on Business Tax Differentials	2
Court Procedure and Administration and Domestic Relations Laws	3
Decedents' Estates Laws	5
Legislative and Administrative Printing	6
Pennsylvania State and Local Pension Systems and Their Relationship to Existing Social Security Laws	7
Operations of the Professional Licensure Boards	8
Continuing Study on Public Schools	9
Sale of Life Insurance by Mutual Savings Banks	10
Standards and Specifications for Nonhighway Structures and Equipment	11
Surface and Underground Water Supply	12
Subsidence Committee	13
Joint State Government Commission Act	15
Joint State Government Commission Staff	19
Joint State Government Commission Reports to the General Assembly	21

INTRODUCTION

Act No 535 of the 1955 Session, signed by the Governor May 15, 1956, provided that the membership of the General Assembly should constitute the Joint State Government Commission and charged the executive committee with responsibility for conducting the business of the Commission. It was the consensus of the executive committee that the interest of the General Assembly would be best served by confining the application of available time and resources to those of critical importance in which studies could be effectively carried out in the time remaining before the convening of the 1957 Session of the General Assembly.

Accordingly, small task forces, whose members were designated by the President Pro Tempore of the Senate and the Speaker of the House of Representatives from the full membership of the Commission, were appointed and the following studies were undertaken:

1. Branch banking
2. Comparative study of business tax differentials
3. Court procedure and administration and domestic relations laws
4. Legislative and administrative printing
5. Pennsylvania state and local pension systems and their relationship to existing Social Security laws
6. Operations of the professional licensure boards
7. Continuing study on public schools
8. Sale of life insurance by mutual savings banks
9. Standards and specifications for nonhighway structures and equipment
10. Surface and underground water supply

It is the conduct of these studies which is covered by this biennial report.

A separate committee under the Joint State Government Commission was created by Act of 1956, May 31, P. L. (1955) 1931, to make a study and investigation relating to subsidence of surface soil in anthracite and bituminous coal mining regions. The operations of the Subsidence Committee are briefly described in this report, and a separate, more detailed report will be presented as directed by the act.

The Advisory Committee on Decedents' Estates Laws was reactivated by the executive committee for the purpose of screening amendments to the laws relating to decedents' estates proposed during the 1957 Session, and matters related thereto.

Reports of findings and recommendations of the task forces, together with such supplemental recommendations as the executive committee may make, will be presented to the standing committees designated by the President Pro Tempore and the Speaker. In three instances, it was the decision of the executive committee that the nature of the studies and the information developed call for publication of separate reports. These reports, relating to the comparative study of business tax differentials, sale of life insurance by mutual savings banks, and branch banking, will be submitted to the General Assembly of 1957.

(Sgd) Baker Royer.
BAKER ROYER, Chairman

Joint State Government Commission
Capitol Building
Harrisburg, Pennsylvania

January, 1957

BRANCH BANKING

TASK FORCE

Senate Members	House Members
Henry J. Propert—Co-chairman	Louis J. Amarando—Co-chairman
G. Graybill Diehm	Jules Filo
Bernard B. McGinnis	Allen M. Gibson

The task force on the study of branch banking reviewed information developed by the Federal Reserve Bank of Philadelphia from a comprehensive survey of branch banking in the Third Federal Reserve District and directed that similar data be compiled for the Commonwealth of Pennsylvania.

Consideration was given to the talking of a public opinion poll to determine community attitudes regarding establishment of branch banks and bank mergers, but it was the consensus that sentiment for and against branch bank and merger movements should be ascertained by public hearing.

Accordingly, on November 29, 1956, a public hearing in the matter was held by the task force in the Senate Caucus Room, Capitol Building, Harrisburg. Invitations to present views and pertinent information at the hearing were extended to the Secretary of Banking and to representatives of banking associations and banking institutions.

In addition to the report which will be presented to the standing committees of the Senate and House designated by the President Pro Tempore and the Speaker, a summary of the testimony at the hearing, together with statistical data relating to the branch banking and merger movements in Pennsylvania, will be presented in a separate report.

The Committee on Banking of the Senate and the Committee on Banking and Building and Loan Associations of the House have been designated by the President Pro Tempore and the Speaker, respectively, to receive the findings and recommendations.

COMPARATIVE STUDY ON BUSINESS TAX DIFFERENTIALS

TASK FORCE

Senate Members	House Members
Henry J. Propert—Co-chairman	Albert S. Readinger—Co-chairman
Joseph M. Barr	Hiram G. Andrews
G. Graybill Diehm	Wayne M. Breisch
Rowland B. Mahany	Edwin C Ewing
Israel Stiefel	Robert Wheeler, Jr.

The task force on the comparative study of business tax differentials reviewed comparative data for Pennsylvania and other states relating to railway tax accruals, other utility taxes, value added by manufacturing, numbers and average wages of manufacturing employes, and investment, employes, and payroll of new industry.

At the direction of the task force, a study was instituted of the Pennsylvania tax returns of a sample of corporations, and the cooperation of the subject corporations was enlisted to ascertain comparative taxes paid on their operations in Pennsylvania and other states.

The widespread circulation of statements by industrial officials and newspaper writers charging that Pennsylvania's tax climate is unfavorable to industry led the task force to schedule public hearings to which representatives of industry and the press and other interested parties were invited. Three such hearings on July 31, August 6, and September 12, 1956, were held in the Senate Caucus Room, Capitol Building, Harrisburg. In addition, more than twenty officials of as many Pennsylvania corporations presented facts and views at conferences with the task force in Pittsburgh on October 1, 1956, and in Philadelphia on October 8, 1956.

A report will be presented to the standing committees of the Senate and House designated by the President Pro Tempore and the Speaker. In addition, the results of the study of corporate tax returns and other areas of the task force investigation will be detailed in a separate published report.

The Committee on Finance of the Senate and the Committee on Ways and Means of the House have been designated by the President Pro Tempore and the Speaker, respectively, to receive the findings and recommendations.

COURT PROCEDURE AND ADMINISTRATION AND DOMESTIC RELATIONS LAWS

TASK FORCE

Senate Members	House Members
James S. Berger—Co-chairman	Philip Lopresti—Co-chairman
Charles R. Mallery	Herman Toll
Martin Silvert	Edwin W. Tompkins

ADVISORY COMMITTEE

J. Wesley McWilliams, Chairman

Judges:

Honorable Horace Stern, Chief Justice of the Supreme Court of Pennsylvania
Honorable John T. Duff, Jr., Judge of the Court of Common Pleas of Allegheny County
Honorable Walter P. Wells, President Judge of the Court of Common Pleas of Potter County

Teachers of Law:

William B. Ball
Villanova University Law School
Warren M. Ballard
Temple University School of Law
J. Paul Farrell
Duquesne University Law School
Henry H. Foster, Jr.
University of Pittsburgh School of Law
A. Leo Levin
University of Pennsylvania Law School
Morris L. Shafer, Dean
Dickinson School of Law

Attorneys:

Walter E. Alessandroni, Esquire, Philadelphia
J. Campbell Brandon, Esquire, Butler
R. Paul Campbell, Esquire, Bellefonte
Edward J. Fox, Jr., Esquire, Easton
Abraham L. Freedman, Esquire, Philadelphia

Samuel Goldstock, Esquire, Pittsburgh
Sidney L. Krawitz, Esquire, Milford
Arthur Littleton, Esquire, Philadelphia
J. Wesley McWilliams, Esquire, Philadelphia
Victor J. Roberts, Esquire, Norristown
James W. Scanlon, Esquire, Scranton
Harry L. Siegel, Esquire, Lewistown

The advisory committee was appointed by the Commission at the request of the task force, giving representation to the courts in urban and rural areas, the Pennsylvania Bar Association, law schools in the Commonwealth, and attorneys in each of the eight classes of counties. The study includes the administration, structure, procedure, and personnel of the courts and problems related thereto; calendar congestion and delay in bringing cases to trial; granting of rule-making power to the Supreme Court in criminal cases, reduction in costs of litigation, including appeals; and the law pertaining to jury service and the selection of jurors.

In conjunction with its study of the courts, the task force will review the laws affecting domestic relations and study the feasibility of establishing a court of domestic relations in each of the Commonwealth's judicial districts.

The task force and the advisory committee met and formulated approaches to the over-all problem. Also, consideration was given to remedial measures which might be presented for review by the 1957 Session of the General Assembly.

The Committee on Judiciary General of the Senate and the Committee on Judiciary of the House have been designated by the President Pro Tempore and the Speaker, respectively, to receive the findings and recommendations.

DECEDENTS' ESTATES LAWS ADVISORY COMMITTEE

Judges:

Honorable Hugh C. Boyle, President Judge of the Orphans' Court of Allegheny County
Honorable Ethan A. Gearhart, President Judge of the Orphans' Court of Lehigh County
Honorable David G. Hunter, Judge of the Orphans' Court of Philadelphia County
Honorable Mark E. Lefever, Judge of the Orphans' Court of Philadelphia County
Honorable J. Paul MacElree, President Judge of the Orphans' Court of Chester County
Honorable Frederick A. Marx, President Judge of the Orphans' Court of Berks County
Honorable Karl E. Richards, President Judge of the Orphans' Court of Dauphin County
Honorable Edward Leroy van Roden, President Judge of the Orphans' Court of Delaware County
Honorable J. Colvin Wright, Judge of the Superior Court of Pennsylvania

Attorneys:

Paul Bedford, Esquire, Wilkes-Barre
W. Walter Braham, Esquire, New Castle
Philip A. Bregy, Esquire, Philadelphia
Robert Brigham, Esquire, Philadelphia
Reuben E. Cohen, Esquire, Philadelphia
William H. Eckert, Esquire, Pittsburgh
Roland Fleer, Esquire, Norristown
W. Pitt Gifford, Esquire, Erie
A. J. White Hutton, Esquire, Chambersburg
William W. Litke, Esquire, Bellefonte
Alan S. Loose, Esquire, Jim Thorpe
Ralph D. McKee, Esquire, Pittsburgh
William M. Robinson, Esquire, Pittsburgh
James G. Schmidt, Esquire, Philadelphia
C. L. Shaver, Esquire, Somerset
M. Paul Smith, Esquire, Norristown
Boyd Lee Spahr, Esquire, Philadelphia
Paul C. Wagner, Esquire, Philadelphia
Adolph L. Zeman, Esquire, Washington

The reactivation of the Advisory Committee on Decedents' Estates Laws was directed by the executive committee of Joint State Government Commission. The purpose of the reactivation of the committee is the screening of proposed amendments to the laws relating to decedents' estates introduced during the 1957 Session and matters related thereto. A request from the Attorney General for the further codification and revision of the Transfer Inheritance Tax Law has been referred to the advisory committee for study.

LEGISLATIVE AND ADMINISTRATIVE PRINTING TASK FORCE

Senate Members	House Members
James S. Berger—Co-chairman	John F. Stank—Co-chairman
Benjamin R. Donolow	W. Mack Guthrie
Robert D. Fleming	George J. Sarraf

Consultant
Edward M. Young

The task force on the study of legislative and administrative printing reviewed reports of the 1955 committee appointed to study legislative printing and considered recommendations presented by Mr. Edward M. Young consultant to the task force and chairman of the 1955 committee. Mr. Young's presentation included data and recommendations relating to the printing and reprinting, spacing, and volume of bills, histories, resolutions, and calendars; legislative printing contracts; distribution of printed materials; members' stationery; the Legislative Journal and The Pennsylvania Manual; printing costs; legislative printing in other states; and information concerning a system for the elimination of typesetting in the reproduction of legislative materials, a demonstration of which was witnessed by the task force.

At the direction of the task force, the proposals were reviewed by the legislative consultant, the House parliamentarian, and the chief compiling clerk of the Senate; recommendations issuing from the review of the special committee were then presented to the task force.

In addition, the task force reviewed constitutional and statutory provisions and regulations related to public printing in the Commonwealth.

The Committee on Rules of the Senate and the Committee on Rules of the House have been designated by the President Pro Tempore and the Speaker respectively to receive the findings and recommendations.

PENNSYLVANIA STATE AND LOCAL PENSION SYSTEMS AND THEIR RELATIONSHIP TO SOCIAL SECURITY LAWS
TASK FORCE

Senate Members	House Members
G. Robert Watkins—Co-chairman	Martin C. Mihm—Co-chairman
William J. Lane	Thomas H. W. Jones
Theodore H. Schmidt	Edwin E. Lippincott, II
George N. Wade	Jeanette F. Reibman

Consultant
Adam T. Bower

The task force on the study of Pennsylvania state and local pension systems and their relationship to existing Social Security laws studied the implications of the integration of state and municipal retirement systems with Social Security permitted under federal enactments and the Act of 1952, January 5, P. L. (1951) 1833, as amended 1956, June 1, P. L. (1955) 1973, and reviewed the provisions of Acts Nos. 658, 659, 660, and 661 of 1955, which amended the statutes pertaining to the State Employes' Retirement System, regular and optional third class city retirement systems. and the Public School Employes' Retirement System by providing for the modification of these systems under integration. Opinions were solicited from the consulting actuaries for the state and school employes' retirement systems regarding possible interpretations of the 1955 legislation.

The task force also considered the effects of 1956 amendments to the federal Social Security Act, which permit partial integration of state and local retirement systems with Social Security—that is, extension of integrated coverage to only that group of employes who elect such coverage.

At the direction of the executive committee of the Joint State Government Commission, a technical committee has been appointed to advise the standing committees of the General Assembly with respect to any ambiguities of language in Acts Nos. 658-662 of 1955 and to screen, from a technical point of view, any amendments which may be offered during the 1957 Session to the laws relating to the integration of state and municipal retirement systems with Social Security.

The Committee on Insurance of the Senate and the Committee on State Government of the House have been designated by the President Pro Tempore and the Speaker, respectively, to receive the findings and recommendations.

OPERATIONS OF THE PROFESSIONAL LICENSURE BOARDS
TASK FORCE

Senate Members	House Members
Albert R. Pechan—Co-Chairman	David M. Boies—Co-Chairman
James S. Berger	Leon J. Kolankiewicz
Anthony J. DiSilvestro	John H. Moody
Hugh J. McMenamin	Andrew S. Moscrip

The task force on the study of the operations of the professional licensure boards surveyed the composition, terms of office of members, and statutory provisions (including restrictions on appointments) relating to the professional licensing boards of the Commonwealth, and the fees, eligibility requirements, and penalties applicable to examinees and licensees under the jurisdiction of the boards.

Copies of examinations and information relating to examination procedures (including the manner in which and by whom examinations are prepared and graded) were obtained directly from the licensing boards. Files of the boards were examined and data relating to numbers of persons taking and passing or failing initial and re-examinations over the three-year period 1953-55 were collated and reviewed by the task force. Where obtainable, information relating to Pennsylvania residents and nonresidents and to graduates of Pennsylvania schools and other schools was included, and where applicable, the record of persons, qualifying by experience or apprenticeship was shown.

The Committee on Education of the Senate and the Committee on Professional Licensure of the House have been designated by the President Pro Tempore and the Speaker, respectively, to receive the findings and recommendations.

CONTINUING STUDY ON PUBLIC SCHOOLS
TASK FORCE

Senate Members	House Members
Paul L. Wagner—Co-chairman	J. Dean Polen—Co-chairman
Jo Hays	W. Stuart Helm
Edward J. Kessler	Stephen McCann
Harry E. Seyler	LeRoy A. Weidner

The task force on the continuing study on public schools surveyed the field of state and local support of the public schools. The system under which the Commonwealth reimburse local school districts on the various education accounts was studied, and the effects of various adjustments of the legislatively controlled elements entering into the calculation of reimbursement (i.e., the equalization level and the local effort rate) were considered. The task force also gave special attention to: the closed-school subsidy, from the standpoint of Commonwealth liability on this account and the manner in which the subsidy affects local budget and building programs; the use of supplemental payments for jointures and merged or union districts as an incentive to the establishment of larger, more economical attendance areas; pupil transportation reimbursement; the relationship of the equalization level to unit costs incurred by local districts on account of classroom instruction; the feasibility of extending to other accounts the "actual or standard" cost principle established by Act No. 417 of 1955 with respect to building reimbursement; and the advisability of reimbursing on noninstruction accounts on the basis of a stabilized equalization level.

The Act of 1956, May 31, P. L. (1955) 1937, directed the State Council of Education to prepare a state-wide plan for units of school administration, to be submitted to the Governor and the Joint State Government Commission. A considerable part of the work of the Commissions task force on the continuing study of the public schools related to the organizational pattern, allocation of costs, and other details of a plan for the opera-

tion of such intermediate units or regional service areas." Particular attention was given to the provision, at the regional level, of services which cannot be economically provided by individual school districts, and to coordinating and standardizing certain functions. In conjunction with its consideration of this plan, the task force reviewed the operation of county teachers' institutes and in-service training programs, the education of handicapped children, and the school health program contained in Senate Bill No. 324, Session of 1955.

The Committee on Education of the Senate and the Committee on Education of the House have been designated by the President Pro Tempore and the Speaker, respectively, to receive the findings and recommendations.

SALE OF LIFE INSURANCE BY MUTUAL SAVINGS BANKS TASK FORCE

Senate Members	House Members
Robert D. Fleming—Co-chairman	Mary A. Varallo—Co-chairman
Edward B. Watson	Louis J. Amarando
Charles R. Weiner	George W. Cooper

The task force on the study of sale of life insurance by mutual savings banks directed its efforts to determining whether or not there exists a need for legislation permitting savings banks in Pennsylvania to sell life insurance over the counter and to ascertaining the benefits which might be expected to accrue from legaliizng such sales. The provisions of, and public reaction to, legislation introduced during previous sessions to accomplish this purpose were surveyed. The task force reviewed the history and growth of savings bank life insurance sales in Massachusetts, New York, and Connecticut (states in which such sales are now permitted), and compared costs of ordinary life insurance sold, and policyholder services provided, by insurance companies and through savings banks. In addition, the task force studied data produced from a 1951 field study conducted in Philadelphia to determine interest in, and possible intention to purchase, savings bank life insurance if made available in that city.

A public hearing in the matter, to which were invited representatives of groups both supporting and opposing legislation to permit the sale of life insurance by mutual savings banks, was held October 1, 1956, in the Senate Caucus Room, Capitol Building, Harrisburg. Among those testifying at the hearing were representatives of savings bank life insurance organizations in Massachusetts and New York and the chairman of the savings bank life insurance committee of the National Association of Mutual Savings Banks.

In addition to the report which will be presented to the standing committees of the Senate and House designated by the President Pro Tempore and the Speaker, the complete findings of the task force, together with information produced from the public hearing, will be pubiished in a separate report.

The Committee on Insurance of the Senate and the Committee on Insurance of the House have been designated by the President Pro Tempore and the Speaker, respectively, to receive the findings and recommendations.

STANDARDS AND SPECIFICATIONS FOR NON-HIGHWAY STRUCTURES AND EQUIPMENT TASK FORCE

Senate Members	House Members
William Z. Scott—Co-chairman	Anthony J. Petrosky—Co-chairman
Albert R. Pechan	Robert K. Hamilton
Joseph J. Yosko	Marvin V. Keller

The Act of 1956, June 1, P. L. (1955) 2042, directed the Department of Property and Supplies to establish, in consultation with the Joint State Government Commission, standards for construction and equipment for all buildings owned or to be erected or subsidized by or for the Commonwealth.

The Commission task force appointed to conduct the study necessary to the setablishment of standards directed its attetntion to delevoping possible means of coordinating the architecural and engineering functions now performed by various agencies of the state government in connection with nonhighway structures erected by or for, or subsidized by, the Commonwealth. Conferences were held with the Secretary of Property and Supplies, as well as representatives of the departments of Health, Labor and Industry, and Public Instruction, the General State Authority, State Public School Building Authority, State Art Commission, State Employes' Retirement Board, and the Pennsylvania State School Directors' Association. The Superintendent of Standards of the Philadelphia Procurement Department and a representative of the Philadelphia Department of Public Property presented the task force with data relating to the operations of their agencies in connection with the construction of municipal facilities in the City of Philadelphia, and representatives of the boards of public education of both Philadelphia and Pittsburgh outlined the procedures followed in connection with planning and approval of school plant in those cities. The views and suggestions of the conferees were recorded and reviewed by the task force.

In addition, the task force reviewed the orgnaization and functioning of the New York State Architect's Office, which has from time to time been cited as a model.

The Committee on State Government of the Senate and the Committee on State Government of the House have been designated by the President Pro Tempore and the Speaker, respectively, to receive the findings and recommendations.

SURFACE AND UNDERGROUND WATER SUPPLY TASK FORCE

Senate Members	House Members
John T. Van Sant—Co-chairman	Harris G. Breth—Co-chairman
Peter J. Camiel	William H. Ashton
George B. Stevenson	Donald E. Whitenight

The task force on the study of surface and underground water supply reviewed the recommendations issuing from studies of water resource problems in other states over the period 1952-55, articles on water legislation and related subjects by technical personnel of both federal and state governments, and proceedings of the Northeastern

Interstate Exploratory Conference on Water Rights, Irrigation, and Small Watershed Development held in New York City July 16, 1956.

Several conferences were held with officials of Commonwealth agencies concerned with water resources. At one such conference, the task force was furnished by the chief geologist of the Bureau of Topographic and Geologic Survey in the Department of Internal Affairs with information concerning Pennsylvania's water table, water pumping in mining operations, the increasing consumption of water, and other data relating to underground water supply. At another conference, the Secretary of Forests and Waters presented the task force with data relating to rainfall and water consumption, the need for statutory control in the utilization of surface waters, the discharge of waste into streams, flow regulation through dam construction, farm irrgation, and other subjects related to Pennsylvania's surface waters. Information relating to irrigation in Pennsylvania was submitted in writing by the head of the Department of Agricultural Engineering of The Pennsylvania State University. Conferences were also attended by representatives of the state Department of Health and the U. S. Department of Agriculture and by the acting chief, the chief of the Division of Hydrography, and the district geologist of the U. S. Geological Survey.

Public hearings were held as follows:

On September 12, 1956, in Summit Lawn, Lehigh County, attended by representatives of various citizens' associations of the Saucon Valley.

On September 17, 1956, in Harrisburg, attended by representatives of the Sanitary Water Board of the Department of Health, the Department of Commerce, Pennsylvania State Chamber of Commerce, farm associations, and other organizations.

On October 2, 1956, in Pittsburgh, attended by coal operators and representatives of coal operators' associations and water, flood control, and sportsmen's groups.

On November 13, 1956, in Harrisburg, attended by the Secretary of Mines and representatives from the Department of Health and by citizens of the Saucon Valley and representatives of the New Jersey Zinc Company.

The Committee on State Government of the Senate and the Committee on Conservation and Wild Life of the House have been designated by the President Pro Tempore and the Speaker, respectively, to receive the findings and recommendations.

SUBSIDENCE COMMITTEE
[1956, May 31, P. L. (1955) 1931]

House Members	Senate Members
John F. Stank—Chairman	Harold E. Flack
James J. Jump	Hugh J. McMenamin
James Musto	Thedore H. Schmidt
William J. Reidenbach	Williab Z. Scott
Frank A. Wallace	John T. Van Sant

Members of the Subsidence Committee were appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives as provided by the 1955 act creating the committee under the Joint State Government Commission. As specified in the act, the chairman was elected by the committee at its initial meeting.

The committee reviewed the various legislative enactments relating to surface subsidence resulting from anthracite and bituminous mining operations and the recommendations issuing from a study made by the Anthracite Subsidence Commission established by a 1941 act (amended 1943).

Public hearings in the matter were held as follows:

On July 31, 1956, at Wilkes-Barre

On August 7, 1956, at Coaldale

On September 10, 1956, at Scranton

On September 28, 1956, at Arnold

On November 27, 1956, at Harrisburg

The hearings were attended by representatives of the municipalities affected by surface subsidence, coal operators' associations, and citizens' groups, and the committee was presented with photographs of areas in which subsidence has taken place, as well as reports on subsidence investigations conducted by municipal technical personnel.

The committee also conferred with the Secretary of Mines regarding the subsidence problem and invited suggestions from the Department of Mines.

A report will be submitted to the General Assembly as directed by Act No. 646 of the 1955 Session.

JOINT STATE GOVERNMENT COMMISSION ACT
[1956, May 15, P. L. (1955) 1605]

No. 535

AN ACT

Amending the act of July one thousand nine hundred thirty-seven (Pamphlet Laws 2460), entitled "An act creating a joint legislative commission, to be known as the Joint State Government Commission; providing for the appointment of its members; and defining its powers and duties," further providing for membership of the commission, its chairman and executice committee, and the powers and duties of the commission, and providing for the scheduling of its meetings; imposing powers and duties on standing committees of the General Assembly.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Title, act of July 1, 1937, P. L. 2460, amended.

Section 1. The title, act of July one thousand nine hundred thirty-seven (Pamphlet Laws 2460), entitled "An act creating a joint legislative commission, to be known as the Joint State Government Commission; providing for the appointment of its members; and defining its powers and duties," is amended to read:

Title

AN ACT

Creating a joint legislative commission, to be known as the Joint State Government Commission; providing for [the appointment of its members and] its membership, chairman and executive committee; defining its powers and

duties; and defining the powers and duties of standing committees of the General Assembly.

Section 2. Section one of the act, amended March eight, one thousand nine hundred forty-three (Pamphlet Laws thirteen), is amended to read:

Section 1, act of July 1, 1937, P. L. 2460, amended March 8, 1943, P. L. 13, further amended.

Section 1. Be it enacted, &c., That the [Speaker of] entire membership of the House of Representatives [shall appoint twelve members of the House and the President pro tempore shall appoint twelve members of] and the entire membership of the Senate [who together with the President pro tempore of the Senate and the Speaker of the House of Representatives] shall constitute a continuing joint legislative commission, to be known as the Joint State Government Commission. [The members of the commission shall be appointed during each odd-numbered year and shall continue as members of the commission until the first day of February of the next odd-numbered year, and until their respective successors shall be appointed. Said] The President pro tempore of the Senate, the Speaker of the House of Representatives, the majority and minority leaders of each house, the majority and minority whips of each house, and the chairman of the majority and minority caucuses of each house, shall constitute the executive committee of the commission. The commission shall organize by the selection of a chairman who shall be selected by the executive committee and who shall be ex officio a member of the executive committee without a vote. The commission shall have power to employ a director and such professional, technical, clerical and other assistance as may be deemed necessary. [Said] The commission shall have power to call upon any department or agency of the State Government for such information as it deems pertinent to the studies in which it is engaged. [Said] The commission shall also have the power to [designate members of the General Assembly to such subcommittees as it shall create, for the purpose of making investigations and studies, and to] designate persons, other than members of the General Assembly, to act in advisory capacities. The commission shall organize within thirty days after the final enactment of this act, and thereafter the executive committee shall hold the organization meeting within thirty days after the convening of the regular session of the General Assembly beginning with the regular session of 1957. Meetings of the commission shall be scheduled by the executive committee. The executive committee shall conduct the business of the commission and shall meet at the call of the chairman or upon written request of six or more members thereof.

Joint State Government Commission.

Members of executive committee.

Chairman.

Powers of commission.

Time of organization of commission and executive committee.

Meetings.

Section 3. Section two of the act, amended June twenty-six, one thousand nine hundred thirty-nine (Pamphlet Laws 1084), is amended to read:

Section 2, act of July 1, 1937, P. L. 2460, amended June 26, 1939, P. L. 1084, further amended.

Section 2. [Said] The commission shall have power and its duty shall be:

Powers and duties of the commission.

(a) [To investigate departments, boards, commissions and officers of the State and local governments, and to study their legislative, financial and other problems.

(b) To make studies for the use of the legislative branch of the government, seeking to improve the administrative organization of the State and local governments, to eliminate waste and overlapping functions and to institute economics.

(c) To suggest ways and means of financing the Commonwealth upon a more scientific and equitable basis.

(d) To gather budget information for the use of the General Assembly.

(e)] To make such [other] investigations and studies and to gather such [other] information as may be deemed useful to General Assembly and to the standing committees of the Senate and the House of Representatives.

[(f)] (b) To sit during the interim between legislative sessions.

[(g)] (c) From time to time, to report to the General Assembly or to the various standing committees of the Senate and the House of Representatives such findings and recommendations accompanied with such drafts of legislation as it deems necessary for the information of and consideration by the General Assembly.

(d) To furnish such technical staff services as shall be requested by the standing committees of the Senate and House of Representatives during regular or special sessions of the General Assembly.

Section 4. Section three of the act is amended to read:

Section 3, act of July 1, 1937, P. L. 2460, amended.

Section 3. [Any vacancies occuring in the membership of said commissions shall be filled by appointments, by the Speaker or President pro tempore, of members of the House or Senate, as the case may be to take the place of those persons whose membership in the House or Senate may have ceased.]

The Commission shall undertake, through the standing committees of the Senate and House of Representatives, such studies and investigations as the General Assembly by resolution shall direct.

Studies and investigations.

When a study or investigation is to be made, the Speaker of the House of Representatives shall designate the appropriate standing committee of House and the President pro tempore of the Senate shall designate the appropriate standing committee of the Senate, to make such study or investigation. These two standing committees, when so designated, shall constitue a joint study committee of the commission for such purpose.

Joint study committee.

During the interim between sessions of the General Assembly, each joint study committee assigned to make a study shall meet at the call of the chairman of the commission or at the joint call of the chairman of the designated standing committees of the Senate and House of Representatives.

Meeting of joint study committees.

Section 5. Section four of the act, amended March eight, one thousand nine hundred forty-three (Pamphlet Laws 13), is amended to read:

Section 4, act of July 1, 1937, P. L. 2460, amended March 8, 1943, P. L. 13, further amended.

Section 4. Biennially an item of appropriation shall be inserted in the General Appropriation Bill to pay the expenses of the members of the commission as constituted by this act, and for the salary of the director, clerical and other hire and incidental expenses. No member of the commission shall receive any remuneration, salary or expenses as a member of the commission other than remuneration, salary and expenses as a member of the General Assembly and traveling expenses incurred upon the business of the commission or its study committees.

Appropriation for expenses.

Section 6. Said act is amended by adding, after section four, a new section to read:

Section 5. For the purposes of this act, the standing committees of the Senate and House of Representatives shall continue during the interim between sessions.

Act of July 1, 1937, P. L. 2460, amended by adding a new section 5.

Approved—The 15th day of May, A. D. 1956.

The foregoing is a true and correct copy of Act of the General Assembly No. 535.

HENRY E. HARNER,
Secretary of the Commonwealth.

JOINT STATE GOVERNMENT COMMISSION STAFF

Guy W. Davis, Counsel and Director
Paul H. Wueller, Associate Director in Charge of Research and Statistics
Antoinette S. Giddings, Administrative Assistant

Accountancy
Harold C. Sheets, B.S.

Economics
O. H. Brownlee, Ph.D.
George E. Burdick, B.A.
Harvey G. Hallenbeck, Jr., M.A.
Ernest C. Harvey, A.M.
T. Donald Rucker, Ph.D.
Donald C. Steele, M.Lit.

Engineering
Robert M. Fleming, E.M.

General Research
Anne H. Friedlander, B.A.
Irma R. Strawbridge, B.S.
Janet E. Winans
Helen M. Witt, B.A.

Law
Howard L. Bozarth, LL.B.
Harry Hershey, B.S.
M. Paul Smith, J.D.

MATHEMATICS AND STATISTICS
Elizabeth B. Brooks, B.S.
Frances S. Fonner
Gene L. Grunden, B.A.
Ernestine L. Kielwein, B.A.
Doris E. Lee
Phyllis M. Lerch, B.A.
J. Eleanor Mitchell, B.A.
Louise Wyrick

Publications and Records
Grace L. Fisher
Norma P. Kirkpatrick
Louise E. Shuey

Welfare
Claude Gilkyson, M.G.A.

Office Personnel
Samuel C. Bennett, Jr.
Hilda E. Bubb
Doris J. Conrad
Darlene S. Cook
Mary H. Kuchta

JOINT STATE GOVERNMENT COMMISSION REPORTS TO THE GENERAL ASSEMBLY 1939-1955
[* Indicates publications out of print]

Accounting
Commonwealth Accounting, Session of 1951

Administrative Agencies
General Report, 1951, 1949
*Uniform Practice and Procedure before Administrative Agencies, March, 1949
*Uniform Practice and Procedure, January, 1943

Administrative Code
General Report, 1951, 1949

Adoption
Child Placement and Adoption, Session of 1951
Child Welfare Laws, Juvenile Delinquency and Institutions, April 3, 1947

Aged
*Sixty-Five—A Report Concerning Pennsylvania's Aged, Session of 1953

Air Pollution
Smoke Control, Session of 1951

Alcoholism
*Alcoholism, December, 1948

Allegheny County Court
General Report, 1953, 1951
*Codification of the School Laws, January, 1949

Blind
Blind Pensions in Pennsylvania, Session of 1951
Charities
Solicitation Act of 1925, General Report, 1955
Children
Child Placement and Adoption, Session of 1951
*Juvenile Delinquency and Child Welfare, February, 1949
Child Welfare Laws, Juvenile Delinquency and Institutions, April 3, 1947
*Report on Penal Code and Juvenile Delinquency, April 20, 1945
Cooperatives
Corporations and Cooperatives, General Report, 1949
*Report on Cooperatives, March, 1947
Corporations
Corporations and Cooperatives, General Report, 1949
Criminal Law
General Report, 1951, 1949, 1947
*Penal Laws, February, 1949
*Report on Penal Code and Juvenile Delinquency, April 20, 1945
Criminal Procedure
General Report, 1951, 1949
Decedents' Estates Laws
*Proposed Amendments to the Decedents' Estates Laws—Report of the Subcommittee on Decedents' Estates Laws, July, 1955
Report—Decedents' Estates Laws of 1951 (Incompetents' Estates Act, Register of Wills Act, Orphans' Court Act, Estate Tax Apportionment Act)
Report—Decedents' Estates Laws of 1949 (Fiduciaries Act, Fiduciaries Investment Act)
Report—Decedents' Estate Laws of 1947 (Intestate Act, Wills Act, Estates Act, Principal and Income Act)
Education
Medical Training Facilities, Session of 1955
Practices of Commonwealth-owned and Commonwealth-aided Colleges and Universities Relating to Admission of, and Tuition Charges to, Nonresident Students, General Report, 1955
Public School Building Subsidies, Session of 1955
School Administration, General Report, 1955
School Health Services, Session of 1955
*Public School Pupil Transportation, Session of 1953
*State and Local Support of Public Education, Session of 1953
*Veterinary Medicine in Pennsylvania: Training Facilities and Practice, Session of 1953
Public School Attendance Areas, Session of 1951
Teacher Supply and Demand, General Report, 1951
*Codification of the School Laws, January, 1949
The Hatfield Case (concerning the control of funds derived from extracurricular activities in the public schools). November, 1948
*Per-Pupil Cost of Vocational and General Education Programs in the Public Schools, February, 1949
*Post-High School Education, November, 1948 [1]

[1] 1947, July 8, P. L. 1476.

Finance Companies
General Report, 1947
Fishways
General Report, 1953, 1951
Susquehanna River Fishways, January, 1949
Fish and Game Commissions
Report on Fish and Game Commissions, March 25, 1947
Forests
General Report, 1953
*Commonwealth-owned Forests and Reforestation, Session of 1951
Group Insurance Laws
General Report, 1949
Highways
Highway Safety, Session of 1955
Highway Use and Highway Costs, Session of 1953
*Technical Supplement to Highway Use and Highway Costs, Session of 1953
Report of Findings of Joint Legislative Committee on Turnpike Safety, Session of 1953 [2]
General Report, 1951
Tax-Exempt Liquid Fuels, Session of 1951
Highways—A Proposed Administrative and Financial Program, February, 1949
State-Local Highway Financing, March, 1947
*Distribution of State Funds to Political Subdivisions, April 25, 1945
Historical Sites
General Report, 1951
*The Independence Mall, Session of 1951
Catalog of Historical Buildings, Sites and Remains in Pennsylvania, March, 1949
Independence Square
*The Independence Mall, Session of 1951
Industry
Pennsylvania's Industrial Economy—An Outline of Trends and Strategic Factors, 1929-1947, January, 1949
Insurance Laws
General Report, January, 1951
Joint State Government Commission
*History, Purposes and Activities, April 1, 1940
Juvenile Relinquency
see Children
Labor Laws
General Report, 1949
Landlord and Tenant
*Proposed Landlord and Tenant Act of 1951, September, 1950
Legislative Apportionment
General Report, 1951, 1945
Legislative Journal
General Report, 1949
Legislative Personnel
General Report, 1947
Legislative Printing
General Report, 1947
*Report on Legislative Printing, January, 1943
Legislative Subpoena Powers
General Report, 1949

[2] Senate Concurrent Resolution, Serial No. 110, Session of 1953.

Libraries
Public Libraries, January, 1949
License Fees
State License Fees, Except Those Provided for by the Vehicle Codes, Session of 1953
Liquid Fuels Taxes
Tax-Exempt Liquid Fuels, Session of 1951
Highways—A Proposed Administrative and Financial Program, February, 1949
State-Local Highway Financing, March, 1947
*Distribution of State Funds to Political Subdivisions,, April 25, 1945
Liquor Control Board Warehouse Facilities
General Report, 1951
Liquor Laws
General Report, 1951
Livestock
Livestock Marketing, Session of 1955
Mental Health
*Proposed Mental Health Act of 1951, August, 1950
General Report, 1949
Minerals
Pennsylvania Minerals, Session of 1955
Municipal Authorities
General Report, 1947
*Report on Municipal Authorities, April 10, 1945
Penal Laws
General Report, 1951, 1949, 1947
*Report on Penal Code and Juvenile Delinquency, April 20, 1945
Pensions
Selected Employe Benefit Plans—A Source Book, Session of 1955
Philadelphia City-County Government
General Report, 1949
Public Assistance
Public Assistance in Pennsylvania—Organization, Administration and Policy Problems, Session of 1951
*Report on Relief, January, 1941
Retirement
*Commonwealth Retirement Systems: Structure and Costs, Session of 1951
*School and State Employes' Retirement System, March, 1949
Sex Offenders
*Sex Offenders, Session of 1951
Smoke Control
Smoke Control, Session of 1951
Space Requirements
Commonwealth Space Requirements in Pittsburgh and Philadelphia, Session of 1951
State Employes
*Occupational Hazards, Session of 1951
*School and State Employes' Retirement Systems, March, 1949
State Government
*Report on Organization and Administration of Pennsylvania's State Government, January, 1941
*Supplement to Report on Organization and Administration of Pennsylvania's State Government, January, 1941
*Facts About Your Keystone State Government, December, 1940
Strip Mining
General Report, 1947
Report on Strip Mining, April 20, 1945
Taxation
Third-Structure Taxes, General Report, 1955
Tax-Exempt Liquid Fuels, Session of 1951
Commonwealth-Owned, Tax-Exempt Real Property, January, 1949
Report of Findings and Recommendations on the Pennsylvania Tax System, Part I, February, 1949[3]
Report of Findings and Recommendations on the Pennsylvania Tax System, Part II, February 1949[3]
General Report, 1947
*Proposals for Revision of the Tax Structure of the Commonwealth of Pennsylvania, January 15, 1945
*The Economic Resources and Related Tax Problems of the Commonwealth of Pennsylvania, January 3, 1945
*Fiscal Analysis of the Operating Funds of the Commonwealth of Pennsylvania 1923-1943. August 17, 1944
*Fiscal Operations and Debts of Eleven Selected School Districts 1920-1943, June 19, 1944
*Fiscal Operations and Debt of the School District of Philadelphia, 1920-1943, May 10, 1944
*Fiscal Operations and Debt of the School District of Pittsburgh, 1919-1943, May 11, 1944
*Fiscal Operations and Debt of the School District of Scranton, 1919-1943, May 12, 1944
*Fiscal Operations of the School Districts of the Commonwealth of Pennsylvania, 1920-1942, June 21, 1944
*Public Expenditures for Education in the Commonwealth of Pennsylvania, 1920-1943, June 21, 1944
*Tax Structure and Revenues of the General Fund of the Commonwealth of Pennsylvania, 1913-1943, June 23, 1944
*The Debt of the Commonwealth of Pennsylvania and Its Local Subdivisions, December 13, 1943
*Tax and Financial Problems of the Commonwealth, January, 1941
Turnpike Safety
Report of Findings of Joint Legislative Committee on Turnpike Safety, Session of 1953[4]
Underground Water Supply
General Report, 1953
Unemployment Compensation
Partial Unemployment Compensation Benefits, Session 1951; General Report, 1949
Unemployment Compensation, General Report, 1947, 1941
*Partial Unemployment Compensation—Proposal for Increased Benefits and Benefits for Partial Unemployment, April 10, 1945
*Employer Experience Rating, January, 1941
*Recommendations for Amending Unemployment Compensation Law, January, 1941
Uniform Commercial Code
General Report, 1953, 1951
*Pennsylvania Annotations, September, 1952
Vehicles
Highway Safety, Session of 1955
Highway Use and Highway Costs, Session of 1953

[3] 1947, July 9, P. L. 1468.
[4] Senate Concurrent Resolution, Serial No. 110, Session of 1953.

*Technical Supplement to Highway Use and Highway Costs, Session of 1953
Vehicle and Tractor Codes
General Report, 1949
Vital Statistics
*Report on Bureau of Vital Statistics, Relative to Issuance of Certified Copies of Birth Certificates, January, 1943

Report of the Subsistence Committee to the General Assembly of the Commonwealth of Pennsylvania under Authority of The Act of 1956,

May 31, P. L. (1955) 1931

March 1, 1957

ACT OF THE PENNSYLVANIA GENERAL ASSEMBLY, SESSION OF 1955, CREATING THE SUBSIDENCE COMMITTEE UNDER THE JOINT STATE GOVERNMENT COMMISSION

[1956, May 31, P. L. (1955) 1931]

No. 646

AN ACT

Authorizing the appointment of a joint committee of the House and Senate under the Joint State Government Commission for the *purpose of making a study and investigation and legislative recommendations relating to subsidence of surface soil in anthracite and bituminous coal mining regions and the damages ocurring as a result of such subsidence; conferring powers and imposing duties on the Committee and the Commission, and making an appropriation to the Joint State Government Commission.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Creation of Subsidence Committee, under the Joint State Government Commission.

Section 1. There is hereby created, under the Joint State Government Commission, a joint committee to be known as the Subsidence Committee which shall consist of five members of the House of Representatives, who shall be appointed by the Speaker of the House, and five members of the Senate, who shall be appointed by the President pro tempore of the Senate. The Committee shall elect a chairman. The members of the Committee shall serve without compensation, but shall be reimbursed for all expenses incurred in the discharge of their duties. If a vacancy occurs in the membership of the Committee during its existence, vacancy shall be filled in the same manner as the member whose place is vacated.

* "Purchase" in original.

Duty of study and investigation of subsidence of surface soil due to coal mining operations.

Section 2. During the interim between the present and next succeeding biennial session of the General Assembly, it shall be the duty of the Committee to make a complete study and investigation in the anthracite and bituminous coal mining regions of the circumstances, causes and remedies relating to the subsidence of the surface soil due to coal mining operations, including any damages which have occurred or may occur to any privately owned property or school, church or public highway situated thereon.

Powers of Committee.

Section 3. The Committee shall have the power to hold hearings and take testimony. It may issue subpoenas, under the hand and seal of its chairman, commanding any person to appear before it and to answer questions touching matters properly being inquired into by the Committee and to produce such books, papers, records, and documents as the Committee deems necessary. Any person who wilfully neglects or refuses to testify before this Committee or to produce any books, papers, records or documents shall be subject to the penalties provided by the laws of the Commonwealth in such cases. Each member of the Committee shall have the power to administer oaths and affirmations to witnesses appearing before the Committee.

Report of Committee to Joint State Government Commission and thence to the General Assembly.

Section 4. The Subsidence Committee shall report its findings and recommendations to the Joint State Government Commission and the Commission shall transmit the findings and recommendations of the Committee to the General Assembly on or before March 1, 1957, together with such proposed legislation as the Committee deems necessary to carry its recommendations into effect.

Appropriation.

Section 5. The sum of five thousand dollars ($5000), or as much thereof as is necessary, is specifically appropriated to the Joint State Government Commission for the payment of expenses of the members of said Subsidence Committee for the preparation, editing, printing and distribution of the report and for any other expenses deemed necessary and proper by the Commission.

Manner of Payment.

Section 6. The sum appropriated shall be paid on warrant of the Auditor General in favor of the chairman of the Commission on the presentation of his requisition for the same.

Act effective immediately.

Section 7. This act shall take effect immediately.

Approved—The 31st day of May, A. D. 1956.

GEORGE M. LEADER.

The foregoing is a true and correct copy of Act of the General Assembly No. 646.

HENRY E. HARNER,
Secretary of the Commonwealth.

LETTER OF TRANSMITTAL

To the Members of the General Assembly of the Commonwealth of Pennsylvania:

Pursuant to the provisions of the Act of 1956, May 31, P. L. (1955) 1931, there is presented herewith the Report of the Subsidence Committee established under the act.

BAKER ROYER, Chairman

Joint State Government Commission
Capitol Building
Harrisburg, Pennsylvania
March 1, 1957

SUBSIDENCE COMMITTEE

John F. Stank, Chairman

House Members	Senate Members
James J. Jump	Harold E. Flack
James Musto	Hugh J McMenamin
William J. Reidenbach	Theodore H. Schmidt
John F. Stank	William Z. Scott
Frank A. Wallace	John T. Van Sant

LETTER OF TRANSMITTAL

Honorable Baker Royer
Chairman
Joint State Government Commission of the General Assembly
Harrisburg, Pennsylvania

Dear Mr. Royer:

In accordance with the provisions of the Act of 1956, May 31, P. L. (1955) 1931, I present herewith, for transmittal to the General Assembly, the Report of the Subsidence Committee established under the act.

Respectfully,

JOHN F. STANK, Chairman
The Subsidence Committee

Harrisburg, Pennsylvania
February 20, 1957

TABLE OF CONTENTS

	Page
Recommendations of the Subsidence Committee	1
Introduction	3
Causes of Subsidence	4
Prevention of Subsidence	6
Pertinent Court Decisions and Legislative Enactments	11
Public Hearings	15
Appendices	
A. Subsidence from a Mining Engineer's Point of View	19
B. The Effectiveness and Cost of Flushing Voids Caused by Mining Operations in the Anthracite Region	28
C. Subsidence and the Law	32
D. Enactments of the Pennsylvania General Assembly, Session of 1921, Relating to Anthracite Mine Subsidence	39
E. Decision of the United States Supreme Court Relating to Mine Subsidence	51

(Note: A map showing the known sources of anthracite and bituminous coal in Pennsylvania will be found facing page 6.)

RECOMMENDATIONS OF THE SUBSIDENCE COMMITTEE

The Subsidence Committee recommends:

I. That the General Assembly memorialize the Congress of the United States to amend the Federal Flood Insurance Act of 1956 to provide that subsidence resulting from mining operations shall be an insurable risk.

II. That the General Assembly enact legislation establishing an independent administrative commission in the Department of Mines and Mining Industries, to be known as the Coal Mining Subsidence Commission, for the purpose of conducting studies of subsidence and carrying out flushing programs in the anthracite and bituminous regions. That an appropriation of $150,000 be made to the commission, and a tax of two cents per ton of coal mined be imposed to finance the commission's program.

III. That the General Assembly provide an adequate appropriation to aid municipalities in the acquisition of pillars or other support necessary to prevent subsidence as provided by the Act of 1949, May 18, P. L. 1474.

IV. That the General Assembly enact legislation mandating that every deed to real property indicate, in bold type or otherwise conspicuously, whether or not it conveys mineral and support rights.

INTRODUCTION

Act No. 646 of 1955 directs the Subsidence Committee ". . . to make a complete study and investigation in the anthracite and bituminous coal mining regions of the circumstances, causes and remedies relating to the subsidence of the surface soil due to coal mining operations, including any damages which have occurred or may occur to any privately owned property or school, church or public highway situated thereon."

In accordance with the legislative directive, the committee has investigated the causes of subsidence due to mining operations, the measures which may be taken to prevent the occurrence of subsidence, the effectiveness of past legislative enactments designed to cope with subsidence, and the pertinent court decisions relating to these enactments. In addition, public hearings were held, in connection with whcih the committee inspected some of the areas in which subsidence constitutes a community problem.

CAUSES OF SUBSIDENCE

Subsidence, which may or may not be apparent on the surface, is an inevitable consequence of any extractive operation. Such operations create unbalance in the superjacent rock strata, causing bending and fracturing and falls of rock until the void created by the extraction is filled and the strata reach a new state of equilibrium. Subsidence of the surface has been observed to follow the extraction of salt, sulphur, gypsum, limestone, sand-

stone, shale, clay, natural gas, petroleum, water, and coal.

There is general agreement among mining engineers that the extent and/or duration of subsidence resulting from a given extractive operation cannot be predicted with a high degree of accuracy. Similarly, no universally applicable formula has been developed to calculate the size of pillars or amount of backfill, packwall, or timber support which will prevent subsidence after mining. Generally speaking, the extent of subsidence which is likely to ensue from coal mining, as well as the cost of measures calculated to prevent subsidence, depends upon:

1. The folding, fracturing, and faulting of the rock strata which took place prior to the mining operations.

2. The thickness, depth, and number of coal seams, and the method, order, and rate of extraction.

3. The geological make-up of superjacent strata, which in large part determines resistance to compression and tension.

4. The physical and chemical characteristics of the topsoil.

5. The presence or absence of water.

In Pennsylvania, bituminous mining is concentrated in the western part of the state and anthracite mining in the east. (See map, page 7.) Though subsidence occurs in both fields, the evidence clearly indiiates that subsidence is more frequent, more widespread, and of more far-reaching social and economic consequence in the anthracite than in the bituminous fields.

The differences in the incidence of subsidence in the bituminous and anthracite fields are due to variations of geological conditions. Generally speaking, bituminous coal seams are relatively thin, flat, and close to the surface, and there is considerably less folding of the coal bearing measures, less faulting, less fracturing, and less concentration of workable coal seams in a given area, while anthracite seams—sometimes as thick as 100 feet—are spaced at irregular intervals and are sometimes characterized by a marked pitch.

Though it is useful to differentiate between bituminous and anthracite fields, it should be noted that even within the antharcite area different fields show markedly different characteristics. For instance, in the northern anthracite field, which extends from south of Nanticoke to north of Carbondale, the vein is relatively flat. The cities of Scranton, Wilkes-Barre, and Pittston are situated over this field. In the middle and southern anthracite fields, over which are located the communities of Pottsville, Hazleton, Shamokin, Tamaqua, Shenandoah, and Coaldale, the vein lies in canoe-shaped basins with steeply pitching sides.

Further detail on the causes of subsidence appears in Appendix A.

PREVENTION OF SUBSIDENCE

In considering preventive measures, it is necessary to differentiate between current and future mining operations and "old mine workings."

In present and future mining operations, subsidence can be minimized by the employment of systematic mining methods, which, in the United States, usually take the form of so-called "room and pillar mining." In room and pillar mining, coal is extracted from parallel openings called "rooms," "chambers," or "breasts."

Properly engineered, rooms are driven to a predetermined distance between solid coal on both sides, with temporary timber supporting the roof. When the distance is reached, retreat begins by robbing the pillar of solid coal farthest from the mine entrance. One of the important features of systematic retreat work is keeping the ends of the pillars being robbed in a straight line. This prevents uneven pressure from the unsupported roof from producing "creeps" or "squeezes" along the breakline. The purpose of this procedure is to recover as much coal as can possibly be recovered, simultaneously minimizing the probability of subsidence.

It is essential that the passageways between the coal face and the mine entrance be kept open while the mine is in operation, since these passageways—called "entries," "headings," or "gangways"— are the means of ingress and egress for all purposes. Roof support is accomplished by leaving solid pillars of coal or by supplementing the pillars with artificial support. Artificial supports in common use are timber of steel framing, roof bolting, packwalling, and backfilling. Cribbing of brick, stone, or concrete is used where extra support becomes necessary. The purpose of roof support is to prevent the beginning of failure in the rock strata immediately overlying the coal seam. The first appearance of sag or cracking in the mine roof means that failure has begun; once failure begins, the impending fall may be delayed but not prevented. So the first step toward preventing damage from subsidence is the adequate support of mine openings while first mining is in progress. If there is no break, there can be no subsidence.

The second step is to control roof subsidence during the progress of second mining or retreat. This is accomplished either by leaving artificial supports in place as coal is removed or by leaving no support at all. In low seams, say less than four feet, the practice is to take out every support, including small coal "stumps." The broken strata are then free to fall and fill the void, and equilibrium will be established before the break reaches to the surface.

Though systematic mining tends to reduce the probability of subsidence in connection with current and future mining operations, it is manifestly not a solution to the subsidence that may occur from extractive operations that have taken place in the past. The importance of past operations may be judged if it is realized that in the past approximately eight billion market tons of bituminous and five billion tons of anthracite have been mined in Pennsylvania.[1]

Engineering opinion would seem to be agreed that flushing represents the best available means of preventing subsidence from old mining operations. However, all cost considerations aside, flushing—the introduction of solid matter, either by gravity or pressure methods, into voids created by mining operations—presents many serious technical problems: The exact location of voids created by past mining operations is not known; generally speaking, maps are inaccurate or nonexistent. Condition of voids is not readily ascertainable because of collapsed roofs, disintegrated pillars, and the possible entry of water. Again, because mine openings have become inac-

[1] In 1955, total coal production in Pennsylvania was 110,977,469 tons.

cessible, many of the voids would have to be flushed by what is sometimes referred to as the "blind method."

All preventive measures, whether relating to present, future, or past extractive operations, involve costs, and these may be of such magnitude that their assumption would result in cessation of all mining operations in a given area. Obviously, pillars of coal left in place represent coal that is not salable, increasing the cost per salable ton. Again, the flushing of voids created by past extraction is a costly operation. For example, it was estimated by a committee of mining engineers reporting in 1942 that, at prices prevailing at that time, the cost of flushing under the built-up sections of the anthracite region would approximate seven-and-a-quarter billion dollars, assuming flushing materials were available at the site.[2] It is estimated that, in terms of current prices, this cost would approach fourteen-and-a-half billion dollars.

In connection with the prevention of subsidence, it should be noted that the effect of such subsidence as is inevitable can be minimized by proper selection of surface structure design and careful attention of structure placement. For example, it is well established that very high and long, narrow buildings are more readily damaged by earth movements associated with subsidence than are low and broad-based buildings. Again, buildings of excessively rigid construction are more readily damaged by such movement than are those of flexible construction. A concrete mat or pile foundation provides greater resistance to subsidence damage than do the more conventional foundations. Finally, buildings located at right angles to an advancing line of subsidence have greater resistance than those set at lesser angles.

Further detail is presented in Appendix A.

PERTINENT COURT DECISIONS AND LEGISLATIVE ENACTMENTS

Long before the General Assembly concerned itself with the problem of subsidence, the courts of the Commonwealth developed a number of important precepts bearing on the problem. It would appear that the first case involving the question of liability for damage from subsidence came before the courts in 1870.

In this case, Jones v. Wagner,[3] the surface was owned by one person and the underlying coal by another, and the removal of the coal had apparently caused subsidence and surface damage. The Supreme Court of Pennsylvania adopted the rule of the common law of England, which was that "where there is no restriction or contract to the contrary, the subterranean or mining property is subservient to the surface to the extent of sufficient supports to sustain the latter, or in default, there is liability to damages by the owners or workers of the former for any injury consequent thereon to the latter." The court stated that "the owner of a mineral estate, if the law be not controlled by the conveyance, owes a servitude to the superincumbent estate, of sufficient supports; consequently the failure to do so is negligence, and so may be declared upon." The court held the operators liable because the damages had resulted from the lack of "sufficient supports in the mine to prevent the plaintiff's ground, house and orchard, from injury by subsiding into the cavity made in the earth by the removal of the coal."

But the court also observed: "We have no doubt but all the evils deprecated by the adoption of this rule will disappear under regulations adopted to each case of severance of the soil from the minerals. Contract may devote the whole minerals to the enjoyment of the purchaser, without supports, if the parties choose. [Emphasis supplied.] If not, the loss by maintaining pillars or putting in props will necessarily come out of the value of the mineral estate."

A long line of cases followed the rule set forth in Jones v. Wagner in imposing on mine operators an obligation to support the surface unless that duty of vertical support has been waived. See Coleman v. Chadwick (1875), 80 Pa. 81; Carlin v. Chappel (1882), 101 Pa. 348.

The principle that three estates may exist in land—namely (1) the surface, (2) the minerals and (3) the right of support—and that each of these may be vested in different persons at the same time was recognized and approved in the case of Graff Furnace Company v. Scranton Coal Company (1914), 244 Pa. 592; Penman v. Jones (1917), 256 Pa. 416; and Charnetski v. Miners Mills Coal Company (1921), 270 Pa. 459. It was held that the owner of the surface could not recover from the owner of the coal vein for any damages resulting from subsidence where there had been a waiver of such support: Scranton v. Phillips (1880), 94 Pa. 15; Young v. Thompson (1922), 272 Pa. 360. Similarly, the Commonwealth and its political subdivisions are bound by effective waivers as to surface support when given by prior owners: Commonwealth v. Clearview (1917), 256 Pa. 328. However, the Commonwealth is not bound by such a waiver if it takes the land by condemnation: Commonwealth v. Pardee Brothers (1933), 310 Pa. 353. See 1933, June 1, P. L. 1409.

A search of the records indicates that the General Assembly of Pennsylvania took official cognizance of the existence of the subsidence problem in 1911, when it created a commission to study subsidence in the anthracite fields.[4] Subsequent to the commission's report in 1913, the General Assembly passed an act making it unlawful for mine operators to mine in such a manner as to remove necessary adequate support from beneath streets, avenues, thoroughfares, courts, alleys, and public highways of any municipal corporation.[5] In 1915, a similar act relating to boroughs was passed and the 1913 act as it related to these subdivisions was repealed.[6]

In passing, it may be noted that the 1921 General Assembly also passed an act known as the Fowler Act, which provided for the establishment of the State Anthracite Mine Cave Commission (1921, May 27, P. L. 1192). The act is reproduced in Appendix D. Briefly. under the act Pennsylvania corporations organized and foreign corporations admitted to do business in the state after the effective date of the act, as well as other corporations voluntarily accepting its provisions, were subject to a tax of 2 percent of the market price of all anthracite mined, the proceeds to be used for: (1) the expenses of the commission; (2) payments to persons injured or damaged in person or property by mining operations; (3) measures for the prevention of threatened injury or damage to personal property by surface subsidence resulting from anthracite coal mining operations. The records of the commission, such as they are, suggest that it was

[2] The text of the 1942 report is reproduced in Appendix B.

[3] Jones v. Wagner, 66 Pa. 429 (1870).

[4] Joint Resolution, approved March 24, 1911, P. L. 26.

[5] 1913, July 26, P. L. 1439.

[6] 1915, May 14, P. L. 312.

never active, and it was finally abolished by Section 2 of the Administrative Code of 1929.

In 1921, the General Assembly, through the so-called "Kohler Act," extended the scope of the acts of 1913 and 1915 by making it unlawful to conduct anthracite mining operations in such a manner as to cause the cave-in, collapse, or subsidence of "public structures, streets, roads, bridges, public service facilities, cemeteries, or private structures used for habitation or for commercial or industrial purposes." [7]

Subsequent to the passage of the Kohler Act, the Court of Common Pleas of Luzerne County was asked by Mr. and Mrs. H. J. Mahon to restrain the Pennsylvania Coal Company from mining any coal underlying their property in the City of Pittston, "the removal of which will cause the caving-in, collapse or subsidence of their dwelling house," contrary to the provisions of the Kohler Act. The Luzerne County Court denied relief to the Mahons on the grounds that the coal company not only had acquired title to the coal but had obtained a waiver of support of surface and hence was under no liability for injury thereby inflicted. Though this decision was in accordance with decisions previously handed down, the city solicitor of Scranton and the Attorney General of the Commonwealth intervened and the case was taken to the Pennsylvania Supreme Court. The Pennsylvania Supreme Court reversed the lower court,[8] and the case was appealed to the United States Supreme Court, which in turn reversed the Pennsylvania Supreme Court. The federal court held:

A source of damage to such a house [the Mahons'] is not a public nuisance even if similar damage is inflicted on others in different places. The damage is not common or public. . . . The protection of private property in the Fifth Amendment presupposes that it is wanted for public use, but provides that it shall not be taken for such use without compensation. [Emphasis supplied.] A similar assumption is made in the decisions upon the Fourteenth Amendment. . . . When this seemingly absolute protection is found to be qualified by the police power, the natural tendency of human nature is to extend the qualification more and more until at last private property disappears. But that cannot be accomplished in this way under the Constitution of the United States.[9]

Minor amendatory acts aside, the next enactment relating to subsidence came in 1949, when the General Assembly authorized all political subdivisions "to acquire by donation, agreement, lease, purchase, or the exercise of the power of eminent domain . . . any pillars in any anthracite or bituminous coal mine or any other necessary support of the surface over and above such mine . . . necessary to prevent subsidence, collapse or caving-in of the surface or structures thereon which may result from anthracite or bituminous coal mining operations." [10] In other words, under this act, all political subdivisions can acquire support rights, provided compensation for those rights is made to their owners.

A more complete discussion of legal and judicial action relating to subsidence appears in Appendix C.

[7] 1921, May 27, P. L. 1198. See Appendix D for the full text of this act.

[8] Mahon v. Penna. Coal Co., 274 Pa. 489 (1922).

[9] Penna. Coal Co. v. Mahon, 260 U. S. 393 (1922). The opinion of the court is reproduced in Appendix E.

[10] 1949, May 18, P. L. 1474.

PUBLIC HEARINGS

Hearings were held by the Subsidence Committee as follows:

On July 31, 1956, at Wilkes-Barre
On August 7, 1956, at Coaldale
On September 10, 1956, at Scranton
On September 28, 1956, at Arnold
On November 27, 1956, at Harrisburg.

At these hearings testimony was presented by individual citizens and by representatives of citizens' groups, municipalities, coal operators' associations, and the Pennsylvania Department of Mines and Mineral Industries. Generally, the witnesses presented evidence calculated to demonstrate the damage to surface structures, the hazards to health and safety, and the inconvenience to citizens caused by subsidence due to mining operations.

Many of the witnesses were keenly conscious of the complexity of the problem arising from the fact that the ownership of mineral rights, the right of support, and the utilization of the surface are severable. Several municipal officials, while cognizant of the provisions of the 1949 act permitting municipalities to acquire mine pillars or other support necessary to prevent subsidence, pointed out that the financial condition of their municipalities was such as to preclude any action under the legislation.

A number of witnesses cited the fact that property owners are frequently unaware that their deeds contain specific waivers of mineral and support rights, charging that such waiver clauses generally are so inserted that attention is not drawn to them.

The Pennsylvania Department of Mines and Mineral Industries has had extensive experience with subsidence. In testimony before the committee, representatives of the department indicated that they are acutely aware that the severability of property rights in land represents the crux of the problem:

This method of separating property rights vertically as well as horizontally is the main issue in the problem at hand of finding a way to mine coal with the consequent causing of damage to the surface by subsidence in such a manner as to be financially and humanly fair to both the surface owner and the coal owner. Obviously, where the right to damage clause is in favor of the owner of the coal, he has, at present, a solid legal leg on which to stand. It is this legal leg and its present application in coal mining practice that represents the key to today's problem in surface subsidence caused by coal mining in Pennsylvania.

With respect to the effectiveness of flushing [11] and the practicability of insurance against subsidence loss, the Department of Mines and Mineral Industries notes:

Flushing, or filling of underground voids with finely divided solid particles, using flowing water to conduct them to the desired position, has been suggested as a panacea for the subsidence problem. Flushing is not a cure all for the problem. It is the best method known to this time to reduce the probability of the occurrence and to limit the extent of surface subsidence at locations where part of the underlying coal has been removed and where existing conditions are favorable to its use. Permanent discontinuance of mining in the area is impera-

[11] The 1955 General Assembly appropriated the sum of $1,700,000 to the Department of Mines for works, including flushing, in connection with abandoned mines. Currently, the department is using a part of the appropriation to flush under the Pittston Hospital in the city of Pittston, Luzeerne County.

tive if flushing is to provide continued value for surface support.

The most effective results are obtained from flushing: (1) when no further mining is to ensue (2) when the mine voids to be flushed are standing open (3) when access to said voids is possible to the workmen engaged in the flushing procedure (4) when the pertinent voids are free of underground water (5) when the dip of the vein or seam is sufficient to allow the carrying water used in flushing to drain off readily. Satisfactory flushing is also dependent on: (1) construction of proper holding barricades (2) use of desirable finely divided solids (3) admixture of minimum of carrying water (4) construction of proper drain and seepage boxes (5) proper supervision of depositing of flushing material.

The value of flushing is reduced with the reduction, or elimination, of availability of any of the above conditions. Prevailing conditions must be analyzed at each specific area by persons qualified to determine the practicability and effectivenuess of proposed flushing therein. The title of the coal, or at least of the right to mine it, in any area to be flushed should pass to a group that would assure its permanent inactivity as to mining. Obviously, the owners of coal lands are anxious that mining continue in order to provide income from their ownership and it is believed only a few isolated coal land owners would be agreeable to participating in a permanent cease mining agreement unless the pertinent lands were purchased from them. It is our opinion that to attempt to purchase the coal lands necessary to accompany a wide scale flushing program would result in costs that would be beyond government practicability.

Some type of insurance has been suggested to provide for repairs to surface property damage caused by subsidence due to mining of coal. No mention of any participation on the part of the surface owner in the cost of such insurance has been noted. It is hard to believe that mining companies extracting coal from beneath unimproved lands could be expected to contribute to such a plan. It is not probable that companies mining coal under improved lands could competitively afford the additional expense of such insurance. State and/or Federal financial coverage of such insurance without participation of other parties would appear to be discriminatory.

Proposals for Remedial Action

Following are the major proposals for action relating to subsidence presented in the course of testimony at the hearings.

1. Provide for federal and/or state financial aid to enable municipalities to acquire pillars in any anthracite or bituminous coal mine or any other support "necessary to prevent subsidence, collapse or caving-in of the surface or structures thereon," as authorized by the Act of 1949, May 18, P. L. 1474.

2. Re-enact the "Fowler Act" of 1921, which established the State Anthracite Mine Cave Commission and imposed a tax of 2 percent of the market price of coal mined by every Pennsylvania corporation organized and every foreign corporation admitted to do business in the Commonwealth after the effective date of the act and by any other corporation accepting voluntarily the provisions of the act. Proceeds of the tax were to be used to pay the expenses of the commission, to pay damages to persons injured or suffering property loss as a result of subsidence, and to finance measures for the prevention of injury or loss from subsidence.

3. Re-enact the "Kohler Act" of 1921, which made it unlawful to conduct anthracite mining operations in such a manner as to cause caving-in, collapse, or subsidence of public structures, streets, roads, bridges, public service facilities, cemeteries, or private structures used for habitation or for commercial or industrial purposes.[12]

4. Make it mandatory upon mine operators to furnish artificial support whenever supporting pillars of coal are removed.

5. Amend federal income tax statutes to permit full deduction as losses of structure damages from subsidence.

6. Amend the Federal Flood Insurance Act of 1956 to include subsidence as an insurable risk.

7. Prescribe by statute that every deed to real property must indicate, in bold type or otherwise conspicuously, whether or not it conveys mineral and support rights.

8. Enact legislation providing for an extensive Commonwealth flushing program in the built-up areas of the anthracite region, the cost of the program to be financed by means of a tonnage tax upon anthracite mined.

Appendix A

SUBSIDENCE FROM A MINING ENGINEER'S POINT OF VIEW

R. M. Fleming, E.M.*

Subsidences of the earth's surface, with the exception of certain types resulting from the erosive action of water, ice, or wind, are caused by the adjustment of unbalanced stresses in rock strata immediately subjacent to the area affected.

The rock strata of the earth's crust are subject to constant pressures from natural processes, and earth movements are in progress everywhere at all times. Movements may be of such magnitude as to result in an earthquake or the disappearance of an island beneath the surface of the sea, but most are infinitestimal and pass unnoticed.

Every tendency toward unbalance in the rock strata is counteracted by a tendency toward readjustment and a new state of equilibrium. Any extractive operation creates unbalance in the superjacent rock strata, causing bending and fracturing and rock fall until the void left by the removal of material is filled and the strata reach a new state of equilibrium. This adjustment may reach all the way to the surface and so result in the condition commonly referred to as subsidence. Surface subsidence has been observed to follow the extraction of salt, sulphur, gypsum, limestone, sandstone, shale, clay, minerals, natural gas, petroleum, water, and coal.

Surface subsidence has been observed in every area in which coal has been mined. Systematic study of the phenomenon in many localities has led to the development of a body of fact concerning its nature and causes to which competent mining engineers generally subscribe:

The extent and duration, and even the very occurrence, of surface subsidence depend upon a number of factors. Primary among these are the thickness of the coal seam

[12] All legal advice to the Subsidence Committee indicates that such an act would be held to be not constitutional. The Kohler Act was declared unconstitutional by the United States Supreme Court in 1922. Mr. Justice Holmes wrote the opinion of the court, with a dissenting opinion by Mr. Justice Brandeis.

* Mr. Fleming is professorial lecturer in mining engineering, College of Mineral Industries, The Pennsylvania State University.

and the depth of the seam from the surface. The thinner the seam and the greater the depth, the less chance of disturbance to the surafce from mining operations. Other factors are:

1. The folding, fracturing, and faulting of the rock strata which took place prior to the onset of mining operations.

2. The make-up of the superjacent strata, which may be clay, shale, sandstone, or other coal seams. These vary greatly in resistance to compression, tension, and shear; some bend, some crumble, and some tend to flow under stress.

3. Top soil, which may be loam, clay, sand, or glacial till. These vary greatly in angle of repose, an important factor in determining how far subsidence will extend beyond the area of the broken rock strata.

4. The presence of water. Some materials are impervious to water, while others become plastic or swell and still others dissolve and are carried away, leaving voids.

5. The number of coal seams, the method, order, and rate of extraction, and the amount of solid coal left in place.

Mining history reveals many man-made conditions which favor subsidence, some the result of mining operations and others the result of location and type of surface construction.

The Anthracite Region

Pennsylvania's anthracite beds are located in eleven counties in the northeastern part of the state; the operations are concentrated in Lackawanna, Luzerne, Northumberland, and Schuylkill counties. Earth movements and extreme folding of the strata in this region have bent, distorted, fractured, and, in places, crushed the rock strata. Within the region, geological conditions vary among the southern, middle, and northern fields. The coal beds, ranging in thickness from less than three to almost 100 feet, are spaced at irregular intervals, and the seams vary in number, depth of cover, and degree of pitch throughout the erea. Top soil also varies greatly in thickness and composition. A large portion of the northern field, for example, is covered by an extensive glacial deposit which flows easily when wet.

Mining began in the eighteenth century, expanded rapidly in the nineteenth century, and continued prosperous until the 1920's. Early mining methods were crude, and the practice was to mine the most accessible coal. With the decline of the industry and the consequent abandonment of some mines, roof falls and disintegrating coal pillars—conditions conducive to subsidence—were paid little or no attention.

The Bituminous Region

The bituminous fields of Pennsylvania lie primarily in the western counties, extending into the central part of the state. Here, geological conditions are less severe than in the anthracite region, and the conditions which cause subsidence are different. There is much less folding in the coalbearing measures, less faulting, less fracturing, and generally less concentration of workable coal seams in a given area; the coal seams are generally thinner, flatter, and closer to the surface.

In some areas, surface mining has caused damage. (Surface or strip mining accounts for over 30 percent of the annual coal production in the Central Pennsylvania Field.) Where it has become uneconomical to remove the overburden, the practice of utilizing coal augers for underground extraction has developed. The aim is to extract as much coal as possible at least expense, without supporting the surface.

Subsidence is not a problem of great magnitude in the bituminous fields at the present time. Large areas have been undermined without causing serious damage to the surface. However, there are cases where surface cracks have been observed, buildings have settled, local depressions have appeared, and roads have been severely damaged, even though less than four feet of coal have been removed under almost 300 feet of cover.

Subsidence is likely to become more of a problem in the future than it is at the present time. Vast reserves of coal remain to be mined—some under areas already densely populated, some under growing residential sections and business developments, and some under farm and forest lands, which are as liable to subsidence damage as are built-up areas.

Repair and Reduction of Subsidence Damage

There appears to be little economic justification for repair of existing damage due to subsidence. Money spent for the purpose of merely restoring buildings and improvements would be wasted, since further damage would not be prevented or even modified thereby. Subsidence will reoccur, and the process may go on for years.

Existing damage must be attributed to two principal causes: removal of the coal, leaving a void that sets up stresses in the superjacent strata and results in surface subsidence; and lack of precaution in building construction and improvement of land overlying mine workings.

A Royal Commission on Mining Subsidence found similar conditions in the coal fields of Great Britain. After an exhaustive study lasting several years, the commission published a final report in 1927, in which recommendations for use of the following were made:

1. Hydraulic stowage (flushing or filling)
2. More scientific mining methods
3. Scientific lay-out of surface
4. Careful construction of buildings
5. Appropriate building codes

The Royal Commission report offers nothing new to mining engineers in the United States. (Similar recommendations, for example, can be found in various reports covering subsidence in the coal fields of Pennsylvania.) The reference is made for the purpose of indicating that subsidence involves the same problems wherever coal is mined.

Though there is no way to predict with certitude the extent or duration of a particular subsidence or damage resulting therefrom, mining men well understand the causes of subsidence and have some knowledge of methods for prevention of further subsidence from old mine workings and present and future mining operations. Given such knowledge, the extent and degree of surface damage from subsidence can be minimized.

Abandoned Mine Workings

Subsidence from old mine workings presents multiple

problems. The total amount of coal removed since mining began in Pennsylvania amounts to several billion tons, leaving huge voids underground. According to the testimony of engineers and others who have attempted to make underground inspections, these voids are partially filled with broken rock, and any attempt to estimate the cubical content of the space remaining to be filled would be mainly guesswork. However, it is not unreasonable to suppose that billions of cubic yards would be involved, and that, even at a nominal unit cost, filling would require billions of dollars.

Hydraulic stowage, or flushing, is the only practical method known at the present time for filling old mine voids. Such filling—pumping sludge through bore holes from the surface—involves many problems. Large mine areas have been abandoned, some as long as eighty years ago, and no one knows the exact location of the voids; maps are inaccurate or nonexistent. Many mine openings are inaccessible because of roof falls, and no one knows what conditions prevail. These same roof falls would prevent fill material from flowing. Some of the mined-out coal seams are on gentle pitches and material would not flow readily; other seams on steep pitches would require enormous amounts of fill material. A program designed to fill all mine voids in the coal fields of Pennsylvania would take years to complete, require huge amounts of material, cost enormous sums of money, and in the end would not assure that subsidence would not reoccur.

Selective stowage would seem to offer a sensible approach to the problem of reducing the damage from subsidence in the vicinity of old mine workings. Critical areas could be examined and prospected by drilling and/or by sonic methods, and the systematic lay-out of bore holes for the selected areas would prevent excessive moving of pumping stations. Sonic tests could be made to check progress. Such a program would require organized planning and direction by competent mining men familiar with local conditions.

In selective stowage, no special problem would be encountered in areas in which only one seam has been worked. Where several seams have been worked (as in certain areas of the anthracite region), the number and thickness of seams, the intervals between seams, the amount of coal left in place, and the location of the pillars would have to be taken into account. In these areas, local experience and coal company maps and records would be helpful. Pillars of coal are more likely to be offset in the successive seams rather than directly above each other from bottom to top. Since the normal procedure would be to fill the bottom seam first, there would be problems of casing throughout the voids in the top seams in order to carry the filling material to the bottom seam. If the voids were not aligned vertically, the holes would have to be moved to new locations for each successive seam.

There is always the possibility that the mined-out seams overlie other seams of as yet unmined coal. In such cases, flushing of the mined-out seams would be of limited value unless mineral and/or support rights covering these underlying seams could be simultaneously acquired, since mining under the area would negate the effectiveness of flushing the overlying seams in preventing subsidence.

Systematic selective stowage should be supplemented by systematic repairs to surface land and to the buildings and improvements on the land.

Land repairs will be dictated to a large extent by local conditions. In some areas, minor depressions and pot holes should be filled and leveled; in others, no improvement can be effected unless surface water is diverted or carried off to prevent saturation and erosion of the top soil. In the northern anthracite field, draining and ditching would be helpful in dealing with the special water problems presented by the extensive deposit of glacial till.

The type and location of buildings and improvements on the surface should be regulated. It is a well-known fact that very high and long, narrow buildings are more readily damaged by earth movements associated with subsidence than are low and broad-based buildings. Again, buildings of excessively rigid construction are more readily damaged by such movement than are those of flexible construction. A concrete mat or pile foundation provides greater resistance to subsidence damage than do the more conventional foundations. Finally, buildings located at right angles to an advancing line of subsidence have greater resistance than those set at lesser angles. All of these factors could be dealt with by the adoption of building code regulations, applicable to business and utility as well as private construction, in communities located in the vicinity of old mine workings.

Active Mine Workings

Mining operations can be conducted in such a manner as to minimize damage to surface property from subsidence. The means for reducing subsidence from present and future mining operations are available; the problems presented are those of economics and responsibility for support.

The primary method for modifying subsidence is that of systematic mining, by which the break of the mine roof and caving can be prevented during first mining and the action controlled in the process of second mining. Systematic mining is of two conventional types, called "room and pillar" and "longwall."

In room and pillar mining, commonly used in the United States, parallel openings, called "rooms," "chambers," or "breasts," are driven to a predetermined distance between solid coal on both sides, with temporary timber supporting the roof. When the distance is reached, retreat begins by robbing the pillar of solid coal farthest from the mine entrance.

The ends of the pillars being robbed are kept in a straight line in order to prevent uneven pressure from the unsupported roof from causing "creeps" or "squeezes" along the break-line. The purpose is to recover as much coal as can be recovered economically and safely.

Longwall mining is designed to recover all of the coal on first mining. The main feature is a long continuous face driven toward the boundary of the property (longwall advancing) or from the boundary toward the mine trance (longwall retreating). Men and machines along the face are protected by artificial support. Advocates of the longwall system claim to be able to control roof action so that the pressure is an aid in breaking down coal along the face. This method is in more general use in foreign countries, especially where mining is done under deep cover or extends beneath the sea.

Many modifications of these two basic methods are used, the adaptation dictated by local conditions and the judgment of the mining engineers in charge. Whatever method is adopted, the property must be laid out according to plan and the plan followed without deviation. Continuity of operation according to plan is probably the most effective method of preventing damage from surface subsidence. Systematic mining insures better recovery of coal with greater safety at less cost of production.

Regardless of the method used, the passageways between the coal face and the mine entrance—called "entries," "headings," or "gangways"—must be kept open while the mine is in operation, since these are the means of ingress and egress for all purposes. Roof support is accomplished by leaving solid pillars of coal or by supplementing the pillars with artificial supports, such as timber or steel framing, roof bolting, packwalling, and stowage or backfilling. Cribbing of brick, stone, or concrete is used where extra support becomes necessary.

The purpose of roof support is, or should be, to prevent the beginning of failure in the rock strata immediately overlying the coal seam. The first appearance of sag or cracking in the mine roof means that failure has begun; once failure begins, the impending fall may be delayed but not prevented. If there is no break, there can be no subsidence. Hence, the first step toward preventing subsidence must be adequate support of mine openings during first mining.

The second step is control of roof during the progress of second mining or retreat. This is accomplished either by leaving artificial supports in place as coal is removed or by leaving no supports at all. In low seams—of, say less than four feet—the practice is to take out every support, including small coal "stumps." The broken strata are then free to fall and fill the void, and equilibrium will be established before the break reaches the surface.

No absolutely dependable mathematical formula has been devised for calculating size of pillar or amount of backfill, packwall, or timber support which will prevent subsidence after mining. Solid coal pillars left in place are the most effective means known for supporting a mine roof. The size of pillar and intervals between pillars depend largely on judgment based on experience. Empirical rules for calculating coal pillars allow for such factors as height of seam, depth of cover, and resistance of coal to decomposition and roof pressure. For example, Dron's Rule for calculating the size of shaft pillars for circumscribing all surface buildings which are to be protected and leaving a pillar equal to the area inscribed and extending it to a distance beyond the line to one-third the depth of the mine shaft. This calculation is said to allow for normal excavations and passageways around the shaft bottom. Many similar rules are to be found in Peele's Mining Engineers Handbook.

The decision of whether or not to support the surface, either by leaving permanent pillars of coal or by using artificial supports, is a matter of economics, since in either case there are two valuable natural resources involved—coal and land. Coal left in place is lost forever; land destroyed by subsidence may never be productive again.

Coal pillars left in place reduce the return on the coal operator's investment, since, manifestly, he has less coal to sell and the useful life of his plant and equipment is shortened. The ready alternative seems to be to have the surface owner reimburse the operator for this loss of revenue by purchasing support. However, in many cases the purchase price would be prohibitive, because for all practical purposes it would involve acquisition not only of support but of all mineral rights. Forced to leave large areas of coal for support under heavily populated areas and farm and forest lands, a mine owner might abandon the operation as unprofitable.

With respect to the substitution of artificial for pillar support, it should be noted that the labor and materials used in artificial support of any kind add substantially to the cost of coal production. This is a serious matter to the commercial coal operator, who must sell his coal in competition with oil, gas, and other coal. And it may be taken for granted that the cost of artificial roof support will not be uniform. Variations in thickness and pitch of coal seam, depth and composition of overburden, and methods of mining would result in varying roof-support costs, which then would become a variable factor in competition among mines, among coal fields, and among states where coal is mined.

Subsidence of land following mining operations is a problem of considerable magnitude not only in Pennsylvania but in all states where extractive industries are conducted. From a mining engineer's point of view, a constructive approach to a solution of the problem would be the development of a comprehensive program, implemented by state legislation, in include:

1. Establishment of a liaison committee for the purpose of enlisting the support of other states and the federal government, and the creation of a clearing house, in Pennsylvania, to facilitate the assembling in one place of all available information bearing on the problem, now scattered about in various reports and records, and the dissemination of information to the public.

2. Continuous study by competent mining engineers to assure the orderly progress of efforts to minimize surface subsidence.

3. Codification of existing Pennsylvania laws relating to the exploitation and conservation of mineral and land resources.

A permanent solution to the problem of surface subsidence is certainly desirable, but inadequate or hasty measures will work more harm than benefit by placing coal operators and eventually the state of Pennsylvania in a position of economic disadvantage.

Appendix B

THE EFFECTIVENESS AND COST OF FLUSHING VOIDS CAUSED BY MINING OPERATIONS IN THE ANTHRACITE REGION

A Report to the Antharcite Subsidence Commission of 1941

Scranton, Pennsylvania, September 25, 1942.

ANTHRACITE SUBSIDENCE COMMISSION Appointed Under Act No. 295, P. L. 802, 1941.

Gentlemen:

Your honorable commission in the conduct of its in-

vestigation has previously referred to the process of flushing mine openings under the improved or "built-up" surface of the various municipalities in the Anthracite Region of Pennsylvania as a means of overcoming the objectionable surface disturbances attendant upon the removal of coal support. It is our purpose to call to your attention at this time only the so-called high spots involved in the process frequently referred to as hydraulic filling.

While there have been other methods employed in so-called backfilling of voids resulting from underground mining (pneumatic filling, hand packing or stowing, etc.), it is recognized that none of these are as effective as the hydraulic method. It was first employed in connection with anthracite mining in Pennsylvania some 50 years ago and has been carried on to a more or less extent ever since. However, it has never been conducted on a scale commensurate with the mine openings developed, for a number of obvious reasons; first, the lack of sufficient available material, and, second, the additional cost involved.

Reference has been made that the practice of backfilling mine openings in European countries has been used with success. We find, however, that the practise there has been no more general than that used in the anthracite region. And where used in Europe, particularly Germany, it has had specific application to more or less isolated cases and under Government direction and subsidy.

The anthracite region, as your commission now well knows, extends from Forest City, in the Lackawanna Valley on the northeast, to Dauphin County in the southwest, covering 485 square miles of superficial area over the lowest coal beds. There are many communities, cities and towns, located wholly or in part directly over the coal measures. Available figures indicate that 26% of the entire coal area is confined within the limits of these "builtup" communities, under which the original coal content is estimated to have been 5,000,000,000 gross tons in place. During the long period of mining operations since the beginning, extending over 125 years, it is roughly estimated that 50% of the original coal content under the improved areas as a whole has been removed. Much of this areas is now inaccessible and could not be flushed almost at any cost.

The voids resulting from this mining, together with that of future mining, would develop a volume of 4,424,000,000 cubic yards, the fill material for which would be sufficient to cover the surface of the entire anthracite region to a depth of 10 feet. The estimated cost of filling such openings would be an inconceivable figure of $7,278,000,000. This estimated cost of course is based upon present prices, ranging from $1.50 to $3.00 per cubic yard, depending upon the conditions encountered in the mine openings. It is also contingent upon having flushing material available at the mine opening on the surface, which is not the case under present day conditions.

It is obvious, of course, that no such volume of material is recoverable in the process of the preparation of run-of-mine material currently brought out of the mines, and it would be necessary, therefore, to obtain so-called foreign material for the purpose of flushing mine openings on a large scale. This question of finding material to supplement that produced through the preparation of anthracite coal has heretofore been treated in numerous investigations by commissions from the Federal and State Governments, company and private engineers.

The investigation of the mine conditions under the City of Scranton made by two eminent engineers, William Griffith and Eli T. Conner, and published in Bulletin 25 by the Federal Bureau of Mines, indicates "the excessive cost of completely filling the openings, and the tremendous magnitude of the project makes this plan prohibitive."

More recently the report covering a proposal to flush certain mine openings under the City of Scranton made under the direction of Mr. J. Rossa McCormack and other Scranton engineers, indicated the cost of flushing 8 separate areas to involve an expenditure approximating $50,000,000. The Federal authorities refused to appropriate such an amount of money for this purpose. It is to be noted that these reports confirm the excessive cost involved in a large scale flushing project.

The flushing of material into mine openings is no panacea for subsidence resulting from the removal of the underlying support of coal. Since it is a known fact, developed through elaborate tests, that such material is compressible to 33% of its original volume in place, the same is true in varying degrees with other types of support. Engineers and others engaged in operation are unanimously of the opinion that flushing has, as its asset, the chief function of providing lateral support to pillar coal by diminishing the disintegration of the pillar coal support. This is no new theory but one which has been demonstrated throughout the history of the industry. It is obvious, therefore, that the surface can be maintained only through leaving the coal support intact. It must be realized that not only is flushing an expensive procedure, uneconomical from an operating cost standpoint, but its application is attendent with hazards of varying degrees. The various coal beds are geologically formed on pitches ranging from light to heavy in the different basins throughout the region. On the lighter pitches the hazards involved are considerably less than those on the heavier pitches and consequently the factors with regard to cost of filling, drainage, ventilation, etc., are peculiar to the particular location.

It has been shown that flushing is beyond the economic limits of the industry and further that flushing will not provide the support necessary to prevent surface subsidence.

The only other alternate is to leave intact such pillars of coal as remain unmined under the various municipalities. Such procedure would, however, not prevent further subsidence which unquestionably will continue.

Furthermore, it must not be overlooked that the anthracite region, notwithstanding its relatively vast extent, is peculiarly and exclusively dependent upon the healthy condition of this particular industry through the employment of men, with consequent large payrolls, and those of corelated enterprises, and the vast amount of taxes paid to the municipalities in the region. Statistics show that the average tax income annually flowing into the treasuries of the various municipalties for the unmined coal lying under built-up areas ranges from $30 to $50 per superficial acre of surface, amounting to more than $3,000,000 in total. This income would be undoubtedly lost if it became necessary to discontinue mining operations and abandon the coal through legislation for the

support of the surface. The local taxes paid locally is many times greater.

It is a matter of record that for more than thirty years in the immediate past, the problem of surface subsidence incident to mining has been given serious consideration by the industry, the engineering profession and the public, and no complete solution has as yet been found.

Respectfully submitted,

J. F. K. BROWN
[Hudson Coal Company]
H. A. DIERKS
[Glen Alden Coal Company]
R. A. LAMBERT
[Pennsylvania Coal Company]
WM. C. MUEHLHOF
[Philadelphia and Reading Coal and Iron Company]
N. N. NICHOLS
[Glen Alden Coal Company]
H. W. MONTZ
[Lehigh Valley Coal Company]

Appendix C

SUBSIDENCE AND THE LAW

The first Pennsylvania court case involving the question of liability for property damage resulting from subsidence due to the extraction of coal was the case of Jones v. Wagner, 66 Pa. 429, (1870). In this case the surface was owned by one person and the underlying coal by another. The Supreme Court of Pennsylvania adopted the rule of the common law of England which was that "where there is no restriction or contract to the contrary, the subterranean or mining property is subservient to the surface to the extent of sufficient supports to sustain the latter, or in default, there is liability to damages by the owners or workers of the former for any injury consequent thereon to the latter." (Emphasis supplied.) The court stated that "the owner of a mineral estate, if the law be not controlled by the conveyance, owes a servitude to the superincumbent estate, of sufficient supports; consequently the failure to do so is negligence, and so may be declared upon," and held the operators liable because the damages had resulted from the lack of "sufficient supports in the mine to prevent the plaintiff's ground, house and orchard, from injury by subsiding into the cavity made in the earth by the removal of of the coal."

But the court also observed:

We have no doubt but all the evils deprecated by the adoption of this rule will disappear under regulations adapted to each case of severance of the soil from the minerals. Contract may devote the whole minerals to the enjoyment of the purchaser, without supports, if the parties choose. [Emphasis supplied.] If not, the loss by maintaining pillars or putting in props will necessarily come out of the value of the mineral estate.

A long line of cases followed the rule set forth in the above case in imposing on the mine owner or operator an absolute duty of support of (1) the surface above the mine and (2) the artificial additions (buildings, etc.) erected, unless the duty of vertical support has been effectively released. Coleman v. Chadwick, 80 Pa. 81, (1875); Carlin v. Chappel, 101 Pa. 348, (1882).

The principle that three estates may exist in land—namely, (1) the surface, (2) the minerals, and (3) the right of support—and that each of these may be vested in different persons at the same time was recognized and approved in the cases of Graff Furnace Company v. Scranton Coal Company, 244 Pa. 592, (1914); Penman v. Jones, 256 Pa. 416, (1917); and Charnetski v. Miners Mills Coal Mining Company, 270 Pa. 459, (1921). It was held that the owner of the surface could not recover from the owner of the coal vein for any damages resulting from subsidence where there had been a waiver of such support: Scranton v. Phillips, 94 Pa. 15, (1880); Young v. Thompson, 272 Pa. 360, (1922). Similarly, the Commonwealth and its political subdivisions are bound by effective waivers as to surface support when given by prior owners: Commonwealth v. Clearview, 256 Pa. 328, (1917). However, the Commonwealth is not bound by such a waiver if it takes the land by condemnation: Commonwealth v. Pardee Brothers, 310 Pa. 353, (1933). See 1933, June 1, P. L. 1409.

In addition to the possibility of there being three separate estates in the same parcel of land, there may be various seams of coal in the same estate, each seam owned by a different person, but by the very nature of the circumstances and necessities, mining operations must be conducted so as not to interfere with either the underlying or overlying seam owners or operators, and " 'in the absence of a release or waiver of support, mining operations must be so conducted as to leave intact the superincumbent estate.' " Pa. C. & C. Corp. v. Duncan-Spangler Company, 132 Pa. Superior Ct. 533, (1938).

The General Assembly of Pennsylvania took official cognizance of the subsidence problem of 1911, when, by joint resolution, a commission was formed to study physical conditions and the legal problems related thereto, and to propose remedial legislation.[1] This commission in 1913 made a report on existing conditions[2] to the legislature and proposed two bills, neither of which imposed any duties of surface support on mine operators. Neither of the proposed bills was adopted, but the General Assembly passed an act making it unlawful for mine operators to mine in such a manner as to remove necessary adequate support from beneath streets, avenues, thoroughfares, courts, alleys, and public highways of any municipal corporation.[3] Specifically, the act provided:

Sec. 4701.

Section 6. It shall be unlawful for any person, firm, association, or corporation to dig, mine, remove, or carry away the coal, rock, earth, or other minerals or materials forming the natural support of the surface, beneath the streets, avenues, thoroughfares, courts, alleys, places, and public highways of any municipal corporation within this Commonwealth, to such an extent and in such a manner as to thereby remove the necessary adequate support of the surface against subsidence, without having first placed, built, erected, and constructed sufficient adequate and permanent artificial support, in place and stead thereof, to maintain, uphold, and preserve the stability of the surface of said streets, avenues, thoroughfares, courts, alleys, places, and public highways.

[1] Joint Resolution, approved March 24, 1911, P. L. 26.

[2] Legislative Journal (1913), V, 5947-6006.

[3] 1913, July 26, P. L. 1439. Repealed as to cities of the third class by Act of 1931, June 23, P. L. 932, Art. XLVII,

This same act permitted municipal corporations in the anthracite region of the Commonwealth to create bureaus of mine inspection and surface support, vesting in the bureaus powers of mine inspection and requiring mine owners, operators, or superintendents to file with the bureaus maps or plans of their workings or excavations.

In 1915, similar provisions were enacted relating specifically to boroughs in the anthracite region and the 1913 act was repealed as it applied to them.[4]

In 1921, the legislature extended the scope of this prior legislation by making it unlawful to conduct antharcite mining operations in such a manner as to cause the caving-in, collapse, or subsidence of: public structures, streets, roads bridges, public service facilities, cemeteries, or private structures used for habitation or for commercial or industrial purposes.[5]

Under the provisions of the act, commonly known as the Kohler Act, the Court of Common Pleas of Luzerne County was asked by Mr. and Mrs. H. J. Mahon to restrain the Pennsylvania Coal Company from mining any coal underlying their property in the City of Pittston, "the removal of which will cause the caving-in, collapse or subsidence of their dwelling house." The Luzerne County court denied relief to the Mahons on the grounds that the coal company not only had acquired title to the coal but had also obtained a waiver of support of the surface and hence was under no liability for injury thereby inflicted.

Though this decision was in accord with the decisions previously handed down, the city solicitor of Scranton and the Attorney General of the Commonwealth intervened and the case came to the Pennsylvania Supreme Court, where its importance became more evident because the court considered that it involved not only the Mahons, as the lower court had regarded it, but the interest of the entire anthracite region of the state, including many villages, boroughs, and cities, containing, the court's opinion estimated, approximately a million people.[6] It had, according to the Supreme Court, "become a matter of widespread notoriety that these disturbances menace the safety and material welfare of the inhabitants of communities in that part of the state." The Supreme Court of Pennsylvania opinion continued:

During the period mentioned [the previous fifteen or twenty years], the facts have been put before the public, not only by news of the collapse of streets and the fall of buildings, but also through the reports of commissions created by joint resolutions of the legislature and by means of numerous proposed statutes, antedating the present law, some of which passed and others did not; likewise, by messages from the governor of the Commonaddressed to the general assembly.

The opinion also pointed out that the conditions that gave rise to the Act of 1921, May 27, P. L. 1198, were summarized in the preamble to the act, and added:

In signing the bill, the governor stated of record that "lives have been lost, homes, churches and schools destroyed, and an ever-present peril has threatened the morale of the entire community"; adding, "for a generation the appeal . . . to save the situation has been heard at the capital."

The Pennsylvania Supreme Court held that theretofore subsidence cases had been decided on the grounds that they involved private interests between the parties concerned, whereas the act in question was directed to halting a public nuisance; that the mining operations of the defendant coal company were a public nuisance and hence the exercise of the police power to prevent such a nuisance was a proper exercise of that power.

As to the contractual rights of the parties, the Pennsylvania Supreme Court held:

It was the harmful results, to the community as a whole, of contracts granting the right to let down the surface under any and all circumstances, that gave rise to the statute now attacked; and the power to enforce the public policy of the State, declared in this legislation, cannot be defeated because those who move the court [the Mahons] are parties to such a contract.

The Pennsylvania Coal Company took an appeal to the Supreme Court of the United States; the case there takes the name of Pennsylvania Coal Company v. Mahon, 260 U. S. 393, (1922). The opinion of the U.S. Supreme Court stated:

A source of damage to such a house [the Mahons'] is not a public nuisance even if similar damage is inflicted on others in different places. The damage is not common or public. . . . The protection of private property in the Fifth Amendment presupposes that it is wanted for public use, but provides that it shall not be taken for such use without compensation. A similar assumption is made in the decisions upon the Fourteenth Amendment. . . . When this seemingly absolute protection is found to be qualified by the police power, the natural tendency of human nature is to extend the qualification more and more until at last private property disappears. But that cannot be accomplished in this way under the Constitution of the United States.[7]

Under the decision of the U.S. Supreme Court, the 1921 Pennsylvania act dealing with the subsidence problem was declared unconstitutional.

The 1921 General Assembly had also passed an act known as the Fowler Act, which established the State Anthracite Mine Cave Commission and gave it jurisdiction over anthracite coal miners.[8] Mine owners or operators who accepted the provisions of the act were required to pay the commission two percent of the market price of all anthracite coal mined. (Corporations organized and foreign corporations admitted after the effective date of the act were presumed to consent to be bound by its provisions.) The commission was directed to use the moneys for: (1) expenses of the commission; (2) payments to persons injured or damaged in person or property by mining operations; and (3) payments for the prevention of threatened injury or damage to persons or property by surface subsidence resulting from anthracite coal mining operations.

The Commission had but one set of members: James B. Smith, Scranton; Philip R. Bevan, Wilkes-Barre; and

[4] 1915, May 14, P. L. 312, Chap. VII, Art. VII.

[5] 1921, May 27, P. L. 1198; the full text of the act is reproduced in Appendix D.

[6] Mahon v. Penna. Coal Co., 274 Pa. 489, (1922).

[7] The opinion of the U. S. Supreme Court is reproduced in Appendix E.

[8] 1921, May 27, P. L. 1192; the full text of the act is reproduced in Appendix D.

Thomas H. B. Lyon, who died May 13, 1922. While the two surviving members were renominated by Governor Sproul on January 2, 1923, for terms beginning November 23, 1921, until annulled,[9] Governor Pinchot, on January 16, 1923, recalled all of the many nominations made by Governor Sproul, including the nominations of the two members of the commission. While the act creating the commission was in no way involved in the litigation of the Pennsylvania Coal Company v. Mahon, for some reason or other members were never appointed after Governor Pinchot's recall of the nominations. No report of the commission has been found, and the agency was finally abolished by section 2 of the Administrative Code (1929, April 9, P. L. 177); no similar commission has since been created.

When the Department of Welfare was created in 1921, it was given specific authority to exercise its supervision over various systems of payments, including "any system of reparation provided by the Commonwealth for the relief from conditions caused by mine-caves."[10]

A 1927 act continued the authority of boroughs in the anthracite region to establish bureaus of mine inspection and surface support. These bureaus were given full power of inspection, and section 1160 of the act made it unlawful for any one to so "dig, mine, remove or carry coal, rock, earth or other minerals or materials forming the natural support of the surface beneath the public highways, streets, alleys, courts, and places of any borough in the anthracite region to such an extent and in such a manner as to thereby remove the necessary support of the surface, without having first placed or constructed an artificial permanent support sufficient to uphold and preserve the stability of the surface of such public highways, streets, alleys, courts, and places."[11]

Similarly, a 1931 act extended the authority of third class cities in anthracite regions to establish bureaus of mine inspection and surface support with powers similar to those set forth above.[12]

In 1937, a statute was enacted making it unlawful to mine bituminous coal in such a "negligent" manner as to cause the caving-in, collapse, or subsidence of surface property located in counties of the second class.[13] The scope and purpose of this act are identical to the Act of 1921, May 27, P. L. 1198, which is reproduced in Appendix D.

In 1949 the General Assembly authorized all political subdivisions to "acquire by donation, agreement, lease, purchase, or the exercise of the power of eminent domain . . . any pillars in any anthracite or bituminous coal mine or any other necessary support of the surface over and above such mine . . . necessary to prevent subsidence, collapse or caving-in of the surface or structures thereon which may result from anthracite or bituminous coal mining operations."[14] This act meets the requirements of the U. S. Supreme Court decision with reference to the Fifth and Fourteenth Amendments.

[9] Legislative Journal (1923), I, 23.

[10] 1921, May 25, P. L. 1144.

[11] 1927, May 4, P. L. 519, sections 1155-62; section 1160 was last amended 1951, July 19, P. L. 1026, No. 217. When the Borough Code was re-enacted and amended (1947, July 10, P. L. 1621, etc.), the provisions relating to bureaus of mine inspection and surface support were also re-enacted.

[12] 1931, June 23, P. L. 932, sections 2201-09; re-enacted and Amended 1951, June 28, P. L. 662.

[13] 1937, July 2, P. L. 2787. The question of the constitutionality of this act was raised by a legislator at the time of the third reading of the bill. See Legislative Journal (1937), V, 5584 ff.

[14] 1949, May 18, P. L. 1474.

Appendix D

ENACTMENTS OF THE PENNSYLVANIA GENERAL ASSEMBLY, SESSION OF 1921, RELATING TO ANTHRACITE MINE SUBSIDENCE

The Act of 1921, May 27, P. L. 1192

AN ACT

Affecting anthracite coal mines and operations; establishing the Pennsylvania State Anthracite Mine Cave Commission; defining its jurisdiction and powers; imposing duties upon owners and operators of anthracite coal mines; and imposing penalties.

Pennsylvania State Anthracite Mine Cave Commission. Definitions.

Section 1. Be it enacted, &c., That the words "owner," "operator," and "mine," and the phrase "anthracite coal mine," wherever used in this act, are declared to bear the same meaning as the same bear in the act, approved the second day of June, one thousand eight hundred and ninety-one (Pamphlet Laws, one hundred seventy-six to two hundred and eight, inclusive).

Establishment of commission.

Section 2. Within three months after the approval of this act, there shall be established a commission, to be known as the Pennsylvania State Anthracite Mine Cave Commission.

Acceptance or rejection of act by operators.

Section 3. It shall be the duty of the owner or operator of every anthracite coal mine, within six months after the approval of this act, to signify in writing to the commission whether or not such owner or operator vountarily accepts the provisions of section eight of this act. Such acceptance or rejection shall be acknowledged, and recorded in the recorder of deeds' office of the county or counties in which such anthracite coal mine or mines are situate, in the same manner as deeds of conveyance. An owner or operator who has rejected the provisions of section eight of this act may thereafter accept the same in the manner hereinbefore provided.

Acceptance presumed.

Section 4. Every owner or operator who fails to signify in writing a non-acceptance of the provisions of section eight of this act, within six months from the approval of this act, shall be conclusively presumed to have accepted the provisions of said section. Every acceptance or failure to signify a non-acceptance as aforesaid shall bind the successors in title, heirs, personal

Whom acceptance binds.

representatives, and assigns of such owner or operator.

Corporations hereafter incorporatd.

Section 5. Every corporation hereafter to be organized, under the laws of this Commonwealth, under a charter giving the privilege to own or operate anthracite coal mines, shall be conclusively presumed to consent to be bound by the provisions of section eight of this act.

Foreign corporations.

Section 6. Every foreign corporation hereafter admitted to do business within the jurisdiction of this Commonwealth under a charter giving the privilege to own or operate anthracite coal mines shall be conclusively presumed to consent to be bound by the provisions of section eight of this act.

Maps and plans to be filed with commission.

Section 7. It shall be the duty of every owner and operator of every anthracite coal mine or mining operation to file with the aforesaid commission copies of all maps and plans of their underground workings, whenever the same are required by existing law to be filed or deposited with any public officer or authority.

Payments by operators to commission.

Section 8. It shall be the duty of every owner or operator who accepts or becomes subject to the provisions of this section of this act in the manner hereinbefore provided, to pay the commission herein established, on the first day of May, August, November, and February, respectively, a sum equal to two per centum of the market price, when prepared for market, of all anthracite coal mined within this Commonwealth by such owner or operator during the first, second, third, and fourth quarters, respectively, of every year. The commission shall have power by suit in assumpsit to enforce collection of such sums as become delinquent, with interest thereon at the rate of one per centum per month.

Collection.

Deposit and expenditure of commission's funds.

Section 9. All sums received by the commission shall be deposited to the credit of the commission in one or more banks which are entitled to receive deposits of State moneys, and shall be expended only, upon order of the commission, for the purposes and objects and in accordance with the provisions of this act.

Purposes for which funds may be expended.

Section 10. Said funds so received shall be expended by the commission for the salaries and other expenses of said commission, for the prevention and elimination of danger to life, limb, and health, and avoidance of grave public harm by surface subsidence resulting from past or future anthracite coal mining operations, and likewise for the prevention, ascertainment, and remedying of damages to persons and properties so resulting.

Claims for damages resulting from caves.

Section 11. Every person, natural or artificial, including municipalities, claiming to have suffered injury or damage to person or property by reason of surface subsidence occurring within six years prior to the passage of this act, or which may hereafter occur, resulting from past or future anthracite coal mining operations, may file a sworn itemized statement thereof with the commission, which shall promptly proceed to investigate the claim, and shall award the claimant such sums as, in its judgment, will fairly compensate for the damages sustained.

Investigation and award.

Restoration in lieu of damages.

Section 12. The commission shall have power in every case, instead of awarding damages to such claimants, to cause injured property to be restored to its former condition, and for this purpose to employ labor, purchase materials, or let contracts.

Release.

Section 13. No awards shall be paid to any such claimant, except upon condition that such claimant execute a general release of all past damages to the particular porperty injured or damaged in favor of the owner or operator whose workings occasion the damage, provided said owner or operator has accepted the provisions of section eight of this act.

Mining under structures, highways, etc.

Section 14. Every owner or operator who has accepted the provisions of section eight of this act shall be privileged, at any time, to submit to the commission an application, setting forth details of proposed mining operations to recover coal belonging to the applicant and located beneath a structure, highway, or other improvement of a class protected against subsidence by the provisions of the act of one thousand nine hundred and twenty-one, entitled "An act regulating the mining of anthracite coal; prescribing duties for certain municipal officers; and imposing penalties." The application shall also set forth, under oath, the belief of the applicant that the removal of such coal can be affected without endangering human life, limb, or health, or causing grave public harm.

Details of proposed operation to be submitted.

Application for permission.

Investigation.

Section 15. The commission shall take prompt action upon such application, make such investigation as appears to be required, and, if convinced of the truth of the matters set forth in the application, make an order permitting the applicant to carry out proposed mining operations, under such safeguards of life, limb, health,

Permission.

and general welfare, as it may reasonably require; and all damages occasioned by such mining operations shall be paid by the commission: Provided, however, That nothing in this act contained shall be construed to affect any express or implied contractual or property right of support belonging to the owner of the overlying or adjacent surface.

Rights of support not affected.

Section 16. No owner or operator shall be prosecuted for causing a subsidence, collapse, or cave-in of any structure, highway, or other property, where the mining operations had been conducted in pursuance of an order of the commission and in a careful and skillful manner.

Prosecution of operators.

Section 17. The commission, its engineers, and agents, shall have the right of access, at all reasonable times, to all anthracite coal mines and mining operations, and to all papers, records, books, maps, plans, charts, and other documents pertaining thereto; and where, upon investigation, conditions appear to exist in any mine or mining operation which threatens the life, limb, or health of persons upon the surface, the commission may, after hearing and determination of the existence of such danger, order and direct the owner or operator in control of such mine or mining opeartion to leave or provide such support or to take such precautions as the commission may determine are reasonably necessary to avoid or eliminate such danger, provided that any owner or operator who has accepted the provisions of section eight of this act, and contributed the sums required to be paid under said section, shall be reimbursed by the commission for the fair and reasonable value or cost of the support so required to be left or provided.

Right of access to operations and books.

Orders to remedy dangerous conditions.

Reimbursement of operator.

Section 18. Whenever, in the opinion of the commission, it shall be deemed necessary for the safety of the traveling public using any public street or of any person occupying or residing upon property from under which the coal has been mined prior to the passage of this act or is about to be mined out under the provisions of this act, in such a manner and to such an extent as to create a public peril, the commission shall have the right and power to withdraw said portion or portions of such street or streets from public use by closing the same until such time as the danger is removed, and likewise, upon the petition of the majority of the inhabitants of any territory affected as aforesaid, to direct said inhabitants to temporarily remove therefrom until such time as the danger has been eliminated. In such case, the commission shall provide suitable and adequate housing facilities for the inhabitants so affected, and recompense any injured party for all damages and expenses by them sustained in such connection, such damages to include all expense of moving from and to said property and all additional expense, including loss of rents, resulting from the aforesaid removal, which the commission may approve, and likewise any damage to any buildings or building so affected, except to the extent which the same may be repaired or restored by said commission or under its authority out of the funds so provided. In case any owner or occupant of any property in such affected territory shall refuse to comply with any order of the commission in this behalf, he shall not be entitled to receive any compensation or reparation from said commission.

Closing of dangerous streets.

Removal from endangered properties.

Housing of inhabitants who have moved.

Damages caused by moving.

Refusal to move.

Section 19. In case at any time the commission has not sufficient funds to pay all sums awarded by it, the following preference shall be made in the payments:

Priorities in commission's funds.

1. Payments of the necessary expenses of the commission.

2. Awards to persons injured or damaged in person or property by mining operations of mines the owners or operators of which have accepted the provisions of section eight of this act, priority being given in accordance with the date upon which the claims were filed.

3. Expenditures for the prevention of threatened injury or damage to persons or property by surface subsidence resulting from anthracite coal mining operations. Where the commission shall certify that an emergency exists, such payments shall take precedence over payments of awards of damage for injuries.

4. All other awards, priority being given in accordance with the date upon which the claims were filed.

Where payments of awards are deferred for lack of funds, such awards shall bear interest at the rate of six per centum per annum.

Section 20. The commission shall consist of a chairman and two other members, one of whom shall be a practical mining engineer, and all of whom shall be citizens and residents of the anthracite producing counties of the Commonwealth, to be appointed by the Governor and to hold office during his pleasure, and shall establish headquarters at such place in the anthracite region as it may determine.

Personnel of commission.

Headquarters.

Section 21. The members of the commission shall each receive a salary of eight thousand dollars per annum and their actual necessary expenses. The commission shall employ a secretary, counsel, and such other deputies, assistants, engi-

Organization and salaries.

neers, investigators, and clerks, as it seems necessary, and may fix and pay the salaries thereof, the organization to be modeled as nearly as practicable upon the organization of the Public Service Commission: Provided, however, That all salaries and expenses of the commission shall be payable only out of the funds received by them from owners and operators who have accepted the provisions of section eight of this act, and no funds shall be payable out of the public treasury on account of salaries or expenses of the commission or awards of damages.

Payment of salaries.

Section 22. The commission shall make annual report to the Governor, and shall recommend to the Governor such changes in the laws as will, in its opinion, reduce the evils resulting from mine caves or surface subsidences in the anthracite region of this Commonwealth.

Report.

Section 23. The commission shall have power to issue subpoenas and subpoena duces tecum, to administer oaths, and to regulate the procedure to govern the conduct of its affairs. Any person aggrieved by any final order of the commission shall have the right to appeal to the courts of the Commonwealth to the same extent and in the same manner as appeals are allowed from final orders of the Public Service Commission.

Subpoenas and oaths.

Appeals.

Section 24. It is hereby declared that the provisions of this act are severable one from another, and if, for any reasons, this act should be judicially declared and determined to be unconstitutional so far as one or more phrases, clauses, sentences, paragraphs, or sections thereof, such judicial determination shall not affect any other provisions of this act. It is hereby declared that the remaining provisions would have been enacted notwithstanding such judicial determination of the invalidity in any respect of one or more of the provisions of this act.

Construction.

Section 25. Any owner or operator, or officer, agent, or employe thereof, wilfully violating any order of the commission shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than five thousand ($5,000) dollars, or undergo imprisonment of not more than one (1) year, or both, at the discretion of the court.

Violations.

Misdeameanor.

Penalty.

Section 26. All acts or parts of acts inconsistent with this act are hereby repealed: Provided, howover, That nothing herein contained, except as expressly recited, shall in any manner affect the act of one thousand nine hundred and twenty-one, entitled "An act regulating the mining of anthracite coal; prescribing duties of certain municipal officers; and imposing penalties."

Repeal.

Approved—The 27th day of May, A. D. 1921.

Wm. C. Sproul.

The Act of 1921, May 27, P. L. 1198

No. 445

AN ACT

Regulating the mining of anthracite coal; prescribing duties for certain municipal officers; and imposing penalties.

Section 1. Be it enacted, &c., That it shall be unlawful for any owner, operator, director, or general manager, superntendent, or other person in charge of, or having supervision over, any anthracite coal mine or mining operation, so to mine anthracite coal or so to conduct the operation of mining anthracite coal as to cause the caving-in, collapse, or subsidence of—

Mining of anthracite coal.

Must not cause subsidence of certain lands and structures.

(a) Any public building or any structure customarily used by the public as a place of resort, assemblage, or amusement, including, but not being limited to, churches, schools, hospitals, theatres, hotels, and railroad stations.

(b) Any street, road, bridge, or other public passageway, dedicated to public use or habitually used by the public.

(c) Any track, roadbed, right of way, pipe, conduit, wire, or other facility, used in the service of the public by any municipal corporation or public service company as defined by the Public Service Company Law.

(d) Any dwelling or other structure used as a human habitation, or any factory, store, or other industrial or mercantile establishment in which human labor is employed.

(e) Any cemetery or public burial ground.

Section 2. Every owner, operator, lessor, lessee, or general contractor, engaged in the mining anthracite coal within this Commonwealth, shall make, or cause to be made a true and accurate map or plan of the workings or excavations of such coal mine or colliery, which shall be drawn to a scale of such size as to show conveniently and legibly all markings and numbers required to be placed thereon by the terms of this act. Such maps or plans shall also show in detail and in markings of a distinctive color, all contemplated workings which are intended to be undertaken or developed within the succeeding six months. Such maps or plans shall be de-

Maps and plans of proposed operations.

Filing.

posited, as often as once in six months, with the mayor in cities where such coal mines or colliers are situated. In boroughs and townships of the first class, such maps or plans shall be filed with the county commissioners of the proper county. Such maps or plans shall be considered public records, and shall be open to the inspection of the public, and copies or tracings may be made therefrom. No mining shall be done which is not shown on the map or plan filed at least ten days previously.

Public records.

Time of filing.

Section 3. Every owner, operator, lessor, lessee, or general contractor, engaged in the mining of anthracite coal, or any president, director, general manager, superintendent, or other person in charge of, or having supervision over, any anthracite coal mine or mining operation in this Commonwealth, shall be, and is hereby, required: (a) To designate, within a period of six months from the passage of this act, and to keep designated by number, each and every pillar of anthracite coal beneath the surface still remaining in place at the time this act goes into effect and all pillars thereafter created, the number of each pillar to be placed in a conspicuous position with white paint or some other equally durable and visible substance; and (b) to designate, or cause to be designated, by numerals of convenient and legible size, upon all mine maps or plans mentioned in section two of this act, with the space on each map or plan designating any pillar of coal, the number of such pillar.

Designation of pillars.

Section 4. The mayor of cities, the burgess of boroughs, the boards of township commissioners of townships of the first class, and such engineers and other agents as they may employ, shall, at all reasonable times, be given access to any portion of any anthracite coal mines or mining operations which may be necessary or proper to inspect, for the purpose of determining whether the provisions of this act are being complied with, and all reasonable facilities shall be extended by the owner or operator of such mine or mining operation for ingress, egress, and inspection.

Certain officers to have access to mines.

Section 5. The mayor of cities, the burgess in boroughs, the board of township commissioners in townships of the first class, shall have the power to prevent the mining of anthracite coal beneath the surface in any mine or mining operation in which the pillars of coal shall not have been numbered and the numbers thereof designated by maps or tracings as provided by this act; and where mining operations are being conducted in violation of this act, they shall have the power to prevent any miner or laborer, other than those necessary for the protection of life and property, from entering the mine or mining operation, until such time as the provisions of this act have been complied with.

Mining where pillars have not been designated.

Mining in violation of act.

Section 6. The provisions of this act shall not apply to townships of the second class, nor to any area wherein the surface overlying the mine or mining operation is wild or unseated land, nor where such surface is owned by the owner or operator of the underlying coal and is distant more than one hundred and fifty feet from any improved property belonging to any other person.

To what cases act is inapplicable.

Section 7. Any owner, operator, lessor, lessee, or general contractor engaged in the mining of anthracite coal, or any president, director, general manager, superintendent or other person in charge of, or having supervision over, any anthracite coal mine or mining operation, who shall violate any provision of this act, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not more than five thousand dollars, or undergo imprisonment for not more than one year, both or either, at the discretion of the court.

Violations.

Misdemeanor.

Penalty.

Section 8. The courts of common pleas shall have power to award injunction to restrain violations of this act.

Injunction.

Section 9. This act is intended as remedial legislation, designed to cure existing evils and abuses, and each and every provision thereof is intended to receive a liberal construction such as will best effectuate that purpose, and no provision is intended to receive a strict or limited construction.

Remedial legislation.

Section 10. It is hereby declared that the provisions of this act are severable one from another, and if, for any reason this act shall be judicially declared and determined to be unconstitutional so far as relate to one or more words, phrases, clauses, sentences, paragraphs, or section thereof, such judicial determination shall not affect any other provision of this act. It is hereby declared that the remaining provisions would have been enacted notwithstanding such judicial determination of the validity in any respect of one or more of the provisions of this act.

Construction.

Section 11. This act shall go into effect three calendar months after its final approval.

When effective.

Section 12. All acts and parts of acts inconsistent with this act are hereby repealed. Repeal.

Approved—The 27th day of May, A. D. 1921.

WM. C. SPROUL.

Appendix E

DECISION OF THE UNITED STATES SUPREME COURT RELATING TO MINE SUBSIDENCE

[Penna. Coal Co. v. Mahon, 260 U. S. 393 (1922)]

This is a bill in equity brought by the defendants in error to prevent the Pennsylvania Coal Company from mining under their property in such a way as to remove the supports and cause a subsidence of the surface and of their house. The bill sets out a deed executed by the Coal Company in 1878, under which the plaintiffs claim. The deed conveys the surface, but in express terms reserves the right to remove all the coal under the same, and the grantee takes the premises with the risk, and waives all claim for damages that may arise from mining out the coal. But the plaintiffs say that whatever may have been the Coal Company's rights, they were taken away by an Act of Pennsylvania, approved May 27, 1921, P. L. 1198, commonly known there as the Kohler Act. The Court of Common Pleas found that if not restrained the defendant would cause the damage to prevent which the bill was brought, but denied an injunction, holding that the statute if applied to this case would be unconstitutional. On appeal the Supreme Court of the State agreed that the defendant had contract and property rights protected by the Constitution of the United States, but held that the statute was a legitimate exercise of the police power and directed a decree for the plaintiffs. A writ of error was granted bringing the case to this Court.

The statute forbids the mining of anthracite coal in such way as to cause the subsidence of, among other things, any structure used as a human habitation, with certain exceptions, including among them land where the surface is owned by the owner of the underlying coal and is distant more than one hundred and fifty feet from any improved property belonging to any other person. As applied in this case the statute is admitted to destroy previously existing rights of property and contract. The question is whether the police power can be stretched so far.

Government hardly could go on if to some extent values incident to property could not be diminished without paying for every such change in the general law. As long recognized, some value are enjoyed under an implied limitation and must yield to the police power. But obviously the implied limitation must have its limits, or the contract and due process clauses are gone. One fact for consideration in determining such limits is the extent of the diminuation. When it reaches a certain magnitude, in most if not in all cases there must be an exercise of eminent domain and compensation to sustain the act. So the question depends upon the particular facts. The greatest weight is given to the judgment of the legislature, but it always is open to interested parties to contend that the legislature has gone beyond its constitutional power.

This is the case of a single private house. No doubt there is a public interest even in this, as there is in every purchase and sale and in all that happens within the commonwealth. Some existing rights may be modified even in such a case. Rideout v. Knox, 148 Mass. 368. But usually in ordinary private affairs the public interest does not warrant much of this kind of interference. A source of damage to such a house is not a public nuisance even if similar damage is inflicted on others in different places. The damage is not common or public. Wesson v. Washburn Iron Co., 13 Allen, 95, 103. The extent of the public interest is shown by the statute to be limited, since the statute ordinarily does not apply to land when the surface is owned by the owner of the coal. Furthermore, it is not justified as a protection of personal safety. That could be provided for by notice. Indeed the very foundation of this bill is that the defendant gave timely notice of its intent to mine under the house. On the other hand the extent of the taking is great. Its purports to abolish what is recognized in Pennsylvania as an estate in land—a very valuable estate—and what is declared by the Court below to be a contract hitherto binding the plaintiffs. If we were called upon to deal with the plaintiffs' position lone, we should think it clear that the statute does not disclose a public interest sufficient to warrant so extensive a destruction of the defendant's constitutionality protected rights.

But the case has been treated as one in which the general validity of the act should be discussed. The Attorney General of the State, the City of Scranton, and the representatives of other extensive interests were allowed to take part in the argument below and have submitted their contensions here. It seems, therefore, to be our duty to go farther in the statement of our opinion, in order that it may be known at once, and that further suits should not be brought in vain.

It is our opinion that the act cannot be sustained as an exercise of the police power, so far as it affects the mining of coal understreets or cities in places where the right to mine such coal has been reserved. As said in the Pennsylvania case, "For practical purposes, the right to coal consists in the right to mine it." Commonwealth v. Clearview Coal Co., 256 Pa. St. 328, 331. What makes the right to mine coal valuable is that it can be exercised with profit. To make it commercially impracticable to mine certain coal has very nearly the same effect for constitutional purposes as appropriating or destroying it. This we think that we are warranted in assuming that the statute does.

It is true that in Plymouth Coal Co. v. Pennsylvania, 232 U. S. 531, it was held competent for the legislature to require a pillar of coal to be left along the line of adjoining property, that, with the pillar on the other side of the line, would be barrier sufficient for the safety of the employees of either mine in case the other should be abandoned and allowed to fill with water. But that was a requirement for the safety of employees invited into the mine, and secured an average reciprocity of advantage that has been recognized as a justification of various laws.

The rights of the public in a street purchased or laid out by eminent domain are those that it has paid for. If in any case its representatives have been so short sighted as to acquire only surface rights without the right of support, we see no more authority for supplying the later without compensation than there was for taking the right of way in the first place and refusing to pay for it because the public wanted it very much. The protection of private

property in the Fifth Amendment presupposes that it is wanted for public use, but provides that it shall not be taken for such use without compensation. A similar assumption is made in the decisions upon the Fourteenth Amendment. Hairston v. Danville & Western Ry. Co., 208 U. S. 598, 605. When this seemingly absolute protection is found to be qualified by the police power, the natural tendency of human nature is to extend the qualification more and more until at last private property disappears. But that cannot be accomplished in this way under the Constitution of the United States.

The general rule at least is, that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking. It may be doubted how far exceptional cases, like the blowing up of a house to stop a conflagration, go—and if they go beyond the general rule, whether they do not stand as much upon tradition as upon principle. Bowditch v. Boston, 101 U. S. 16. In general it is not plain that a man's misfortunes or necessities will justify his shifting the damages to his neighbor's shoulders. Spade v. Lynn & Boston R. R. Co., 172 Mass. 488, 489. We are in danger of forgetting that a strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way of paying for the change. As we already have said, this is a question of degree—and therefore cannot be disposed of by general propositions.But we regard this as going beyond any of the cases decided by this Court. The late decisions upon laws dealing with the congestion of Washington and New York, caused by the war, dealt with laws intended to meet a temporary emergency and providing for compensation determined to be reasonable by an impartial board. They went to the verge of the law but fell far short of the present act. Block v. Hirsch, 256 U. S. 135. Marcus Brown Holding Co. v. Feldman, 256 U. S. 170. Levy Leasing Co. v. Siegel, 258 U. S. 242.

We assume, of course, that the statute was passed upon the conviction that an exigency existed that would warrant it, and we assume that an exigency exists that would warrant the exercise of eminent domain. But the question at bottom is upon whom the loss of the changes desired should fall. So far as private persons or communities have seen fit to take the risk of acquiring only surface rights, we cannot see that the fact that their risk has become a danger warrants the giving to them greater rights than they bought.

18 March 1957

To The Honorable
The President of the Senate and Speaker of the House of Representatives:

I have the honor to submit for the consideration of the General Assembly, the attached report of the Commission on Governmental Reorganization, dealing with Administrative Organization; Public Buildings.

Respectfully,

encl.

A. J. DREXEL BIDDLE, JR.
Major General
Chairman
Governmental Reorganization Commission

Newspaper Information for
Release to Monday Afternoon Papers
March 18, 1957

COMMISSION ON GOVERNMENTAL REORGANIZATION
COMMONWEALTH OF PENNSYLVANIA

To the Honorable the Members of the General Assembly of the Commonwealth of Pennsylvania:

Pursuant to the Act of 1955, July 7, P. L. 256, the Commission on Governmental Reorganiaztion is pleased to submit for your consideration several recommendations relating to

Administrative Organization and Public Buildings

1. Authorize the Governor to employ an adequate number of administrative assistants, not exceeding six, to function as coordinators of related departments and agencies. Constitute these officers, along with the Governor, as the Executive Board. Change the name of the Office of Administration to the Office of Administrative Management, and recognize its existence by statute.

Administrative operations may usefully be divided into three classes: line, managerial, and staff. Line activities are those for which the agency was created, like building roads, inoculating babies, and propagating fish. Manageriel functions are "housekeeping" operations made necessary by line activities but which in themselves are not primary, like accounting, budgetmaking, personnel administration, purchasing, and care of buildings. Staff functions relate to non-routine planning and to evaluation of existing programs, like preparing a reorganization plan, drafting the Governor's messages to the General Assembly, and planning a campaign to attract new industries to the state.

It is most important that each of these three administrative operations be properly organized in the executive branch of the government of a great state like Pennsylvania.

At present, staff functions are performed by advisers called in from time to time by the Governor. The identity of these advisers necessarily varies according to the task at hand. The Governor has had the benefit of advice not only from the members of his immediate executive family but from persons (in both parties) who occupy responsible positions in the cultural and economic life of the Commonwealth.

Managerial functions are discharged presently by the Department of Property and Supplies and the Office of Administration. The services provided by these two agencies are now well in hand, and no change is needed except to transfer the work of the Bureau of Program Evaluation in the Office of Administration to the organization described below. To make its role as clear as possible, the name of the Office of Administration should be changed to the Office of Administrative Management.

It is the line organization of the state government which is in urgent need of reorganization. The principal difficulty is that the Governor has too many, and too many different kinds of, officials to supervise. Some of these officials are appointed by him and directly responsible to him, some are semi-independent, and some are completely independent, but in the minds of the public the

Governor is responsible for proper performance by all of them.

The Reorganization Commission is not recommending that independent agencies be brought under the direct control of the Governor, but we believe that the Governor should have better facilities to keep informed about the operations of these agencies.

All authorities in the science of public and business administration recognize that no executive, whether he is Governor, corporation president, Mayor, or President of the United States, can effectively supervise between 30 and 40 agencies. A fifth of this number is generally considered to be the most efficient span of control.

It would not be feasible at this time to try to create six clusters of departments, each under an Administrator, placed between the Governor and the department heads. But the Governor should have a sufficient number of skilled administrative assistant, to coordinate the work of related departments.

These officers should be professional or sefi-professional, both in their training and in the discharge of their duties. Thus the administrative assistant who would act as coordinator in the field of economics should be trained in economics, the corresponding officer in the field of public works and conservation should be trained in engineering or conservation, the corresponding officer in the field of welfare would be trained in social welfare, and so on.

The salary of these coordinators normally should be somewhat lower than the current rate for department heads. This disparity would emphasize their role as representatives of the Governor rather than as direct command officers.

Since these six officers would be acquainted with all activities in the Executive Branch, they should also serve as the Executive Board (along with the Governor), replacing the present Board.

This recommendation does not contemplate that department heads would be separated from the Governor; it means merely that the department heads as well as the Governor would have a liaison officer to coordinate related programs and that the Governor and the department heads would have a mutual spokesman and contact agent.

The General Assembly should not be deterred by this increase in the Governor's budget. It is fully expected that these officers will save their salaries many times over.

2. Eliminate the independent office of State Treasurer and merge the functions of that office and those of the Department of Revenue in a Department of the Treasury, under the Governor.

It is generally acknowledged that officers who have no discretionary powers should be appointed. Moreover, the typical State Treasurer, because he is popularly elected, feels that he must introduce checks and audits, which are properly the work of the Auditor General. This duplication can be avoided and large savings effected if functions relating to the collection, custody, and disbursement of funds can be consolidated in one department, and post-auditing is done only by the Auditor General.

The Commission recognizes that there must be a strong officer, independent of the Governor, to act as a watchdog on expenditures. One such strong officer is enough, however. Checks now performed by both the Treasurer and the Auditor General constitute an unnecessary expense.

This and the following change require, of course, amendments to the State Constitution.

3. Discontinue the separate elective status of the Secretary of Internal Affairs and provide for the appointment of that officer by the Governor

The work of this department might well have been strengthened through the years if it had been under the direction of the Governor. Whatever reasons seemed good in 1873 to confer an independent status upon this department are not valid today. The character of the functions of the Department of Internal Affairs does not justify a status different from that of any of the executive departments.

After this department has been given the same status as the other departments, an examination should be made of the wisdom of transferring functions into and out of it, so as to make its bureaus and divisions more closely related. An excellent case could be made making the Department of Internal Affairs into a Department of Local Government, and transferring into such a department the functions presently scattered among many agencies. Local governments could then know where to go to obtain the help and guidance they deserve.

4. Stagger the appointment of the members of the boards and commissions names below so that an interval of time elapses between each appointment which is equivalent or roughly equivalent to the number of years in the term divided by the number of members. (Thus if a board is composed of five members and the term is ten years, an appointment should be made every two years.)

Securities Commission.
Examining and Licensing Boards.
Industrial Board.
Parole Board.
Council for the Blind.
Tax Equalization Board.
Trustees of State Institutions (except Trustees of State Mental and general institutions and State Teachers Colleges which will be in accord with this recommendation after 1965).
Workmens' Compensation Board.
Art Commission.
Battlefield and Park Commissions.
Council of Education.
Historical and Musuem Commission.

Boards and commissions are used in state governments for a number of reasons, one of which is to provide continuity of policy through acquisition of experience. This purpose is defeated, however, if all of the members of the board or commission have concurrent terms.

In making this recommendation, the Reorganization Commission does not wish to circumscribe or curtail the right of the Governor to make removals, where he now possesses the right. In the case of removals, it is intended that the Governor would appoint the successor (to the member removed) for the remainder of the term, not for a full term.

5. Provide that the position of member of any of the boards and commissions named below shall become vacant automatically if the member is absent from three

consecutive meetings without a reason deemed to be a "good reason" as set forth in the agency's rules.

State Board of Public Assistance.
County Boards of Assistance.
Banking Board.
Building and Loan Board.
Securities Commission.
Examining and Licensing Boards.
Industrial Board.
Labor Relations Board.
Parole Board.
Council for the Blind.
Tax Equalization Board.
Trustees of State Institutions (except Trustees of State Mental and general institutions and State Teachers Colleges which will be in accord with this recommendation after 1965).
Unemployment Compensation Board of Review.
Workmen's Compensation Board.
Aeronautics Commission.
Art Commission.
Battlefield and Park Commissions.
Council of Education.
Civil Service Commission.
Fish Commission.
Game Commission.
Historical and Musuem Commission.
Milk Control Commission.
Public Utility Commission.

The purpose of this recommendation is to compel a board member to contribute to the work of the agency or to dissociate himself. Moreover, absenteeism perceptibly reduces the morale of the more conscientious members.

6. Lengthen the terms of the members of the Milk Control Commission from four years to six.

The basic purpose in assigning an administration function to an independent commission is to free that administrative function from interference or domination by the chief executive. A term of our years or less, however, allows the Governor to name the entire commission before his own term expires.

It is intended that the increase in the length of the term will affect only those members who will be appointed after the date of the change.

7. Create an Archives program, with appropriate facilities, where irreplaceable documents may be protected from destruction.

If Harrisburg were to be visited by a holocaust, property titles, industrial and commercial charters, legal documents, and millions of other invaluable papers would be destroyed.

The General Assembly might well name a committee, to make a survey and see at first hand the precarious security of our most important records.

8. Establish in the Department of Property and Supplies an Office of State Architect, which would develop uniform standards and specifications and approve, revise, or disapprove all plans for buildings erected or subsidized by any agency of the state, and which would supervise construction and check specifications. Attach to this Office, in an advisory role, the State Art Commission.

At present, the jurisdiction of architects and inspectors connected with the several departments and authorities is not clear. Considerable unnecessary duplication exists, both among architects and inspectors, hence this change would save money as well as expedite operations. Difficulty is encountered in assembling an adequate technical staff for all of these agencies. This change would terminate such functions in the Department of Public Instruction, the General State Authority, the State Public School Building Authority, and the State Art Commission.

The Department of Property and Supplies would be suitably compensated by the agency for whom the construction is instituted.

9. Designate the Department of Property and Supplies as the agency to keep in repair all buildings used by units of the state government, where the units are too small to support full-time maintenance staffs.

This recommendation does not contemplate that the pertinent budget items will be transferred from the operating departments to the Department of Property and Supplies. It is expected that this department will be compensated by the departments obtaining its services.

To avoid idle times and part-time use of employes, it is recommended that maintenance districts be established over the state.

The Commission wishes to make a distinction between maintenance of properties and janitorial duties. Cleaning, heating, and related functions should not be assumed by the Department of Property and Supplies.

It is anticipated that the Governor's Office would make the determination as to which units are too small to support full-time maintenance staffs. Some agencies use employes for a variety of purposes, one of which is small-scale maintenance, and hence achieve a full-time status for them. These operations would not be disturbed by this change.

10. Raise the limit on the cost of repair and maintenance which can be instituted by operating departments without formal bids and contracts from $4,000 to $12,000.

The figure of $4,000 was fixed by the General Assembly in the 1920's. Since that time construction costs have risen considerably with the result that the Department of Property and Supplies is compelled to go through cumbersome bid procedures on what are now small repairs. This was not the intention of the original legislation.

11. Abolish the State Armory Board and the State Military Reservation Commission and transfer their functions to the Department of Military Affairs, under the Adjutant General.

Actions by the Board deal with repairs to armories and are now perfunctory. The Commission, was created to establish the Indiantown Gap Reservation, which mission has now been accomplished.

27 March 1957.

To The Honorable
The President of the Senate
and Speaker of the House of
Representatives:

I have the honor to submit for the consideration of the General Assembly, the attached report of the Commission on Governmental Reorganization, dealing with Public Health.

Respectfully,

encl.

A. J. DREXEL BIDDLE, JR.
Major General
Chairman
Governmental Reorganization
Commission

Newspaper Information for
Release to Wednesday Afternoon Papers
March 27, 1957

Commission of Governmental Reorganization
Commonwealth of Pennsylvania

To the Honorable the Members of the General Assembly of the Commonwealth of Pennsylvania:

Pursuant to the Act of 1955, July 7, P. L. 256, the Commission on Governmental Reorganization is pleased to submit for your consideration several recommendations relating to

Public Health

1. Enact legislation to provide for an integrated school health program. The technical content of the medical, dental, nursing, and sanitary portions of the program should be prescribed by, and under the general direction of, the Secretary of Health, and the administration and supervision of the educational and teaching aspects should be the responsibility of the Superintendent of Public Instruction.

The present school health program is neither functionally nor administratively integrated and places undue emphasis upon periodic, regularly scheduled medical examinations. It is recommended that the new school health program include medical and dental examination of each child on entry into the school system and in grades six and eleven; vision and hearing tests, height and weight measurements, and a chest X-ray; use of medical questionnaires; and maintenance of a comprehensive health record for each child, including the results of the foregoing examinations, tests, and measurements and the child's attendance and scholastic achievement records.

2. Assign to the Department of Health the responsibility for the sanitary protection of the processing of food destined for human consumption, and the enforcement of laws concerning ingredients. In the case of milk, the jurisdiction of the Department should begin at the time the milk reaches the collecting point or processing plant. The Department of Agriculture should continue to inspect milk on the farm and enroute to the collecting point or processing plant.

The purpose underlying this recommendation is to give the Department of Health complete responsibility for the inspection of processed food (for human consumption) and to leave in the Department of Agriculture the function of maintaining standards in feed (for animal consumption). The functions proposed to be transferred are in the Bureau of Foods and Chemistry; it is not proposed to change the status or functions of the Bureaus of Plant and of Animal Industry.

The emphasis presently placed by the Department of Agriculture in the inspection of food (bakery products, butter, non-alcoholic drinks, coffee, milk, fruit syrups, ice cream, sausage, etc.) relates to the specifications of ingredients rather than to cleanliness in preparation. The Commission believes that inspectors working in a Department of Health would be more likely to emphasize purity and sanitation.

3. Amend Act No. 315, approved 24 August 1951, to make mandatory by 1 January 1962, single-county health districts in counties of more than 60,000 population. Allow smaller counties to create single-county or multi-county units.

Cities of 80,000 population or over should have the option of being included within the jurisdiction of the pertinent county Health Department, or of establishing a separate Health Department under the same standards that are applicable to a county Health Department.

In accordance with a flexible formula of state aid, counties or municipalities should be required to levy taxes toward the financial support of health departments.

Lower jurisdictions within counties should be authorized and permitted, if they desire, to retain jurisdiction over the abatement of nuisances, general cleanliness of streets and buildings, pest control, and similar "community housekeeping" services; and to employ persons designated as Sanitation Officers to carry out these functions, provided that they be carried out under minimum standards of performance established by county or multi-county Boards of Health.

4. Institute in the Bureau of Industrial Hygiene in the Department of Health a vigorous, aggressive program to prevent occupational diseases, this program to emphasize enforcement rather than research.

Industrial environmental hygiene is a primary concern of health authorities, although the Department of Labor and Industry has a close interest in working conditions.

If the health of workers is not the overriding consideration (and legislators will all agree that it is), we must face the tremendous financial burden (estimated at $20,000,000 per biennium) of state assistance to the victims of disease caused by bad working conditions.

Research has progressed far enough for us to know that the present problem is one of enforcement. The purpose represented by this recommendation is not to distinue research but to take affirmative and prompt action to correct the evils we know to exist.

5. Transfer to the State Police the responsibility of enforcing the narcotic laws, except in 1st and 2nd class cities, and retain in the Department of Health only the medical and rehabilitative aspects of the drug problem.

The primary responsibility of the Department of Health in the rehabilitation of drug addicts should of course not be questioned, but a problem exists in the regulation of drug vending.

It is here proposed that Health authorities will continue to audit the records and inspect the sales of vendors, and that it will turn over to the State Police all cases justifying investigation and prosecution.

1 April 1957

To The Honorable
The President of the Senate
and Speaker of the House of
Representatives:

I have the honor to submit for the consideration of the General Assembly, the attached report of the Commission on Governmental Reorganization, dealing with Public Instruction; Labor and Industry.

Respectfully,

A. J. DREXEL BIDDLE, JR.
Major General
Chairman
Governmental Reorganization Commission

Encl. Newspaper Information for release to Monday Afternoon Papers, April 1, 1957

COMMISSION ON GOVERNMENTAL REORGANIZATION
COMMONWEALTH OF PENNSYLVANIA

To the Honorable the Members of the General Assembly of the Commonwealth of Pennsylvania:

Pursuant to the Act of 1955, July 7, P. L. 256, the Commission on Governmental Reorganization is pleased to submit for your consideration several recommendations relating to

Public Instruction

1. Discontinue the State Public School Building Authority and transfer to the General State Authority all of its functions except those connected with the liquidation of outstanding bonds. Lease buildings to the Department of Property and Supplies.

If a school district fails to make its convenanted payments to the Department of Property and Supplies, that Department should so inform the Department of Public Instruction and the Department of Public Instruction should have no choice but to divert to the Department of Property and Supplies enough of the subsidy designated for the school district to amortize the building.

Instead of having two authorities doing much the same kind of work in constructing buildings and renting them to the state, the financing of school buildings and the contracting for their construction might well be handled by the General State Authority (existing law permits the GSA to construct school buildings), which would rent all such buildings to the Department of Property and Supplies, which in turn would sub-lease them to school districts. Some of the staff of the SPSBA would be transferred to the General State Authority, although in a consolidation some reduction in inspectional and accounting staffs, for example, as well as in travel costs, would seem to be possible.

The present architectural and engineering staff from the SPSBA probably could be used in the unit proposed for the Department of Property and Supplies. By consolidating the design approval work in the Department, any overlapping between the SPSBA and the Department would be alleviated.

One further chance for saving as a result of having the financing done by the General State Authority is that the present requirements for excess coverage and debt service reserve funds in connection with the SPSBA bonds probably would be eliminated.

An added advantage of this proposed plan, from the point of view of the school districts using the state authority plan, would be their need to deal with only one main state agency rather than two.

If the earlier recommendation looking toward the discontinuation of authorities is accepted, this recommendation must be amended accordingly.

2. Provide the Comptroller of the Department of Public Instruction with an adequate pre-audit staff, so that he may safeguard the expenditure of the hundreds of millions of dollars appropriated as subsidies to school districts, and authorize the Department to compel districts to submit appropriate and uniform records.

Aside from building and salary subsidies, a large sum of money is spent by the Commonwealth—about $15,000,000 a year—for the transportation of pupils. But it is spent solely on the basis of information reported by the districts. There is no staff available for verifying the accuracy of the reports on such matters as the capacity of the buses used, the number of miles driven, or possible duplication of routes. It is admitted that undoubtedly the Department pays for the transportation of some pupils not covered by the laws.

Payments of subsidies by the state for extension education likewise are made with almost no verifying of local figures on the number of classes, students, and hours.

A thorough check on all such local reports would not be practicable, but it is recommended that the Department staff should be of sufficient size to permit spot checks.

3. Remove from the State Council of Education all administrative and adjudicatory functions and emphasize that its role is to advise the General Assembly, the Governor, and the Superintendent of Public Instruction on policy matters. (It should be adequately staffed for this purpose.) Limit the boards attached to the state teachers colleges to the same advisory role.

At present, the time of the members of the Council is pre-empted by endless details and administrative minutiae, such as approval of changes in districts, designation of forms of reports, determination of manner of spending of local funds, and borrowing money for residences of teachers and janitors, etc.

To emphasize and implement this change, these boards should elect their own Chairman, and the Superintendent and the college presidents should not be members of their pertinent boards.

To enable the Council to study the educational scene effectively, it should be staffed with an Executive Director, a public finance specialist, a statistician, and a clerk.

The Council should meet once a month for ten months, instead of once every two months during the school year.

4. Create a State Library Commission, lodged for administrative purposes in the Department of Public Instruction, which would choose a State Librarian and exercise general control over the State Library.

The General Assembly should also prescribe a set of objectives for the Library, that is, determine whether it is primarly to serve the local community, or the state as a whole, or the General Assembly, or the executive branch.

At the present time the Library is to a considerable extent a ship without a sail or rudder. Most states administer their library program through a commission; and librarians in Pennsylvania believe a commission should supervise it.

A recent organization chart for the Department of Public Instruction shows the general library and the law library reporting to two different departmental deputies. The law library is said to be an excellent professional library, although used very little. The general library

resembles a city library; it is not rendering the services that it might. The two libraries should be combined under the proposed Commission, and a Librarian and augmented staff appointed as early as possible.

The Library should be reorganized and strengthened both in its collections and staff, in order to take care of immediate and future needs. The development of a strong, professional staff is essential. Emphasis should be given to an over-all state library program which would include provision for:

1) State governmental requirements whether in the State Library itself or in other governmental agencies. The State Library should be so organized as to perform its own local duties to legislators and for state-wide inquiries, as well as to advise other state agencies in their library problems. The services should therefore encompass those to the executive, legislative, and judicial branches of the government and to the independent agencies as well.
2) Advisory services should be made available to the public school and state college and university libraries of the state.
3) Advisory services should be made available to the local public libraries of the state—borough, county, or municipal.

State libraries usually provide six kinds of service: a general collection of state and federal publications and those books and periodicals, newspapers, and other reference material which state officials require for the intelligent discharge of their duties and, in addition, develop collections for the general public; a law library of books and other publications on jurisprudence; a legislative reference library for reference and research assistance on all subjects of legislation; an archives library to preserve those manuscripts, books, records, papers, maps and other papers of original record of any agency of the State Government not in current use and which by law or otherwise must be preserved; a collection of state historical materials bearing on the history of the government and people of the state; and especially an effective library extension division for advice and service to public libraries and to those in schools, colleges and universities. The staff should include several field workers who can be sent on call to libraries as needed.

In drafting the mission of the State Library, the General Assembly can decide in its wisdom which of these typical services are being adequately provided and which are being neglected.

5. Place under the Department of Forests and Waters those parks which presently have a primarily recreational and conservational function, and under the Historical and Museum Commission those parks and monuments which presently have a primarily historical significance.

In keeping with this principle, the Independence Mall State Park and the Point State Park should be transferred to the Commission, but no properties presently under the Commission should be transferred to the Department. The Brandywine Battlefield Park Commission should be made advisory and attached to the Historical and Museum Commission.

In those parks, like Valley Forge and Washington Crossing, where the historical and the recreational factors are both important, it is recommended that jurisdiction be shared. In practice this would mean that the Historical and Museum Commission would plan and execute educational programs in connection with the historical significance of the several parks, and the Department of Property and Supplies would plan and execute recreational programs and would be responsible for all maintenance.

6. Transfer the Junior Historian Unit from the Department of Public Instruction to the Historical and Museum Commission.

This unit promotes the study of Pennsylvania history by school pupils. The transfer is recommended not because the unit is inappropriately located in the Department, but because the Department is so large and so heavily preoccupied with huge administrative responsibilities. The program is a worthy one and should be placed in a smaller and more homogeneous environment, where it will undoubtedly get more attention and encouragement.

7. Transfer the State Board of Funeral Directors from the Department of Health to the Department of Public Instruction.

Fifteen professional examining boards are located in the Department of Public Instruction. These boards do not seem to fit neatly into any one existing department of the government, but most of them are as closely related to Public Instruction as to any other. At least they make tests of the educational qualifications of applicants for licenses, and they have some contact with deans of professional schools. The real estate, barber, and beauty culture boards were attached to the Department in later years, for even less compelling reasons, merely because their procedures were similar to those of the more established professions.

Because there seems to be no other existing department more fitting for these 15 boards, it is recommended that they be allowed to remain in Public Instruction, and that the State Board of Funeral Directors, for similar reasons of consistency, be transferred from the Department of Health to Public Instruction.

Newspaper Information for
Release to Monday Afternoon
Papers, April 1, 1957

COMMISSION ON GOVERNMENTAL
REORGANIZATION
COMMONWEALTH OF PENNSYLVANIA

To the Honorable the Members of the General Assembly
of the Commonwealth of Pennsylvania:

Pursuant to the Act of 1955, July 7, P. L. 256, the Commission on Governmental Reorganization is pleased to submit for your consideration several recommendations relating to

Labor and Industry

1. Empower the Labor Relations Board to arrive at compromise settlements before or during case hearings.

At present the Board must follow a case to a legal end once it has been opened. It is not permitted to mediate an extra-legal situation. This makes for a slow procedure, with unnecessarily costly hearings and investigations. Feelings of the parties in a case may become intensified in the course of such hearings. When a ruling is finally

handed down, even though just, it may not create the best of labor relations. For these reasons, the Board should be allowed to serve in the capacity of mediator when its members feel such service might be in the best interests of peaceful labor relations.

2. Amend the "conclusively prove" phrase in the Occupational Disease Act (amend 31 October 1953) so that the state will not, in practice, pay the full compensation.

Since 1941, contributions by the employer, if made, have been fixed by law at percentages varying from 50% to 90%. The present figure is 60%. However, in cases where disability cannot be "conclusively proved" to be associated with a particular employment, the Commonwealth must bear the entire cost.

It is admittedly difficult to ascribe a particular occupational disease to service with a particular employer, but the recent act which in fact exonerates most employers from sharing the responsibility of compensation fails to supply the initiative needed by the employer to provide safeguards against disease.

Although the money involved is important (for the State's share is likely to be tripled over the last appropriation), the health of the employes is more important, and provisions should operate to accord the worker maximum protection. But maximum protection is not likely to be provided by the employer if he feels that in most cases he will not be financially liable when illness strikes.

COMMISSION ON GOVERNMENTAL REORGANIZATION COMMONWEALTH OF PENNSYLVANIA

To the Honorable the Members of the General Assembly of the Commonwealth of Pennsylvania:

Pursuant to the Act of 1955, July 7, P. L. 256, the Commission on Governmental Reorganization is pleased to submit for your consideration several recommendations relating to

Personnel Administration

1. Direct the pertinent departments to make an agreement with the Civil Service Commission providing that applicants for those professional and technical positions covered in the most recent relevant resolution of the Executive Board shall be recruited, examined, and certified by the Civil Service Commission and providing that the occupants of these positions may not be dismissed from their positions without cause.

Members of the General Assembly have heard repeatedly the arguments for and against a merit system in the civil service. Hence the Reorganization Commmission is not submitting a long essay setting forth the many advantages and disadvantages of either the merit system or the patronage system. The Commission is convinced that the merit system is better, at this time in Pennsylvania, for certain technical and professional positions.

Our reasons for making the recommendation above may be summarized as follows:

a. Policy-making officers and employes should not come under the merit system. Nor need any routine workers who can learn their jobs readily and who require no technical or professional training.

b. Reasonable security of tenure attracts a better type of civil servant.

c. Salaries must be higher, other things besides tenure being equal, if the incumbent can be dismissed without cause at any time.

d. Merit system employes eventually acquire the skills and work performance which come only from experience, hence turn out a given volume of work with fewer names on the payroll.

e. Scarce professional skills cannot be successfully recruited through conventional political channels.

f. Interest in political campaigns and the strength of political parties are not diminished in jurisdictions using the merit system; witness, among many others, Philadelphia and Pittsburgh, the State of California, the City of New York, and the Federal Government.

2. Consolidate into a single personnel act the numerous personnel systems now administered by the Civil Service Commission.

These various programs have been initiated from time to time over the past twenty years. Some have been created by legislation and some by resolution of executive bodies.

Not only because we should simplify the work of the Civil Service Commission, but because we should confer upon all employes exactly the same status, the time is well upon us to consolidate these directives.

3. Organize the Civil Service Commission so as to confine the Commission to rule-making and adjudication, and to general, not immediate, direction of the Executive Director.

In times past the day-to-day work of the Commission has suffered because the Commission members insisted on making routine administrative decisions, e.g., determining the critical percentage or passing mark on an examination. This practice takes on added significance when it is remembered that the Commission meets once a week, or even less frequently.

If this recommendation is adopted, the Commission would appoint and dismiss the Executive Director, but no other employes, and the Executive Director would be responsible for all administrative functions.

4. Permit applicants to qualify for positions in the merit system regardless of residence but extend preference to residents of Pennsylvania if their qualifications are equal to those of non-residents; and permit applicants to file for positions at any time, that is, not merely at the time an announcement is made of the pertinent examination.

The purpose of this double recommendation is to improve the quality of applicants. In the one instance, it is now generally recognized that career professionals, like school superintendents, city managers, public health administrators, etc., move freely from jurisdiction to jurisdiction and every jurisdiction is the better for it. Talent does not occur in exact proportion to geographical areas or population masses. In the other instance, many desirable applicants are unnecessarily lost to us because they happen to miss the announcement of an examination.

5. Create an advisory commission, to include several persons skillled in testing, to appraise the examinations and operations of professional and occupational boards now operating under the general administrative supervision of the Bureau of Professional and Occupational Licensure in the Department of Public Instruction, and to report to the several boards.

Accurate testing and scoring is yearly becoming more of a science. More can be gotten for less time, energy, and money if testing experts compile examinations. Professional board members will always be required to advise on the substance of examinations, but the form and approach of the tests and their grading should be entrusted to testing experts. This expertise can be supplied either by the testing staff presumed above, by the Civil Service Commission, or by outside testing services.

COMMISSION ON GOVERNMENTAL REORGANIZATION
COMMONWEALTH OF PENNSYLVANIA

To the Honorable the Members of the General Assembly of the Commonwealth of Pennsylvania:

Pursuant to the Act of 1955, July 7, P. L. 256, the Commission on Governmental Reorganization is pleased to submit for your consideration several recommendations relating to

Conservation of Natural Resources

1. Enter into a compact with New York, Ohio, and West Virginia, to implement a unitization law governing the extraction of oil and gas.

The future of the gas and oil industry in Pennsylvania appears to depend in large part on the discovery of new reserves in deep zones, but the rule of capture which prevails in Pennsylvania constitutes an obstacle to the exploration of those zones and to the efficient, complete, economic recovery of oil and gas wherever found. Until the law is changed, there is no adequate incentive to induce operators to attempt to develop new oil and gas fields in Pennsylvania.

The potential injury to our national defense is obvious, especially now when the Suez situation reveals the dangers surrounding the Middle Eastern oil reserves owned by the western nations. The public interest in Pennsylvania suffers additional disadvantages from existing procedures because a large share of the inequities, gas losses, and excess expenses are passed on to the public through higher prices for gas and decreased revenue from publicly owned land.

Private landowners lose the benefit of their correlative rights because the oil and gas underlying their lands can be drained out by their neighbors. In fact, as late as 1930, when crude oil sold below its intrinsic value, producers allowed oil to flow into open pits and into rivers and streams rather than to close their wells and allow their neighbors to capture it. In this respect the waste and inequity of the rule of capture is obvious.

The case against the present state of the law can be enlarged upon, but perhaps it is sufficient to point out that Pennsylvania is now the only state with significant oil and gas production that continues to operate under the common law rule of capture. Indeed, Georgia, Florida, and Washington have adopted compulsory unitization laws in advance of any significant production of oil or gas within their borders. Alabama, Arkansas, Louisiana, and Oklahoma also have compulsory unitization statutes, thus realizing the petroleum engineer's concept of the proper way to produce oil and gas. Arizona, California, Colorado, Illinois, Indiana, Kansas, Kentucky, Mississippi, Montana, Nebraska, New Mexico, North Carolina, North Dakota, South Dakota, Texas, Utah, Wyoming, and the United States Congress have all abandoned the rule of capture and recognize in some way the desirability of unitizing the production of an entire pool.

2. Create a Natural Resources Advisory Council, to engage in research and to make policy recommendations concerning a fully integrated natural resources program. For administrative purposes this Commission should be attached to the State Planning Board.

Many of the failures of conservation as well as much waste of resources can be traced directly to an unwillingness or inability to acknowledge this interrelationship, despite its universal recognition by scientists. In the past, independent governmental agencies have been created to deal with just one renewable resource, and these agencies too often have functionel as though the resource under their jurisdiction existed in a vacuum. Integration of plans and operations on the realistic basis of the interdependence of renewable natural resources is vital to the achievement of the legitimate goals of conservation, and to the economic functioning of conservation agencies.

Conservation is now thought of in terms of management. But this management must be dynamic, living, affirmative. Conservation agencies are not mere caretakers. They have a duty to be alert to new problems and new opportunities. If they are not equipped to do research, they must cooperate with those who are. They become repositories of invaluable information, and they should use this information to initiate new programs and if necessary to support proposals of new legislation. There is a great and continuing need for additional knowledge to guide all those who deal with natural resources, and in developing and disseminating this knowledge these agencies can and should play a key part. Conservation must succeed in considerable measure through education and persuasion. Where those gentle means fail or take too long, conservation must succeed through regulation. But regulation must be justified on the basis either of ascertained facts or a risk to our economy or national defense too dangerous to be run. For example, the dangers and potential benefits of "rainmaking," including current experiments in stopping the formation of damaging storms are far from clear. We may get changes in climate with consequent changes in vegetation and natural conditions. Regulation (at least in the form of licensing) may be called for in advance of clear harm to minimize the risks. Interstate compacts with or without concurrent federal action may be necessary. Studying problems of this type and preparing suggestions for handling them should be a major responsibility of conservation agencies.

The multiple-use principle should be applied to every conservation program. Too often recreational possibilities of forests and waters have been ignored, although recreational use is rarely incompatible with other more obvious uses. Too often the research possibilities of so-called wilderness areas are disregarded until the natural state of these few precious areas have been destroyed. Perhaps the answer here is for the state to have a "creative idea" agency to develop new and better uses for its natural resources, improved technologies, more economical procedures, and so forth. Government can adopt the attitude of the most successful, progressive, hardheaded businesses which have actively tried through training and

encouragement to incite their executives to produce ideas. It pays off for business and can do so for government.

There is considerable interest these days in carrying on conservation programs by means of a partnership between government and business. Actually this partnership is inevitable and has existed in some degree since the inception of the conservation movement. However, the current emphasis is on a formalized partnership expressed in the form of contracts and legislation. This may turn out to be a thoroughly worthwhile device on the state as well as the national level, but a caveat must be noted. As a leading student of the problem puts it, pious talk and good intentions are not enough. "Partnership by nature is based on divided authority, and divided authority, if not geared to common objectives and clearly defined methods, means total ineffectiveness if not utter chaos."

The problems inherent in partnerships arise also in these cooperative programs carried on by the United States Government and state governments and by state govenments and local governments. In these situations as well as in the government-business partnership it is absolutely essential to spell out with precision the authority each is to exercise and to reach agreement on policies to be pursued and methods to be adopted.

All of this means that the agencies entrusted with the development and execution of the state's conservation program must have some unity, some intercommunication, some flexibility.

There are innumerable possibilities for additions and improvements to the state's conservation program. A unifying agency could consider, reject, select, and help to implement the best of these as were proposed.

The Reorganization Commission does not believe that the activities of the Fish and Game Commissions should be brought within the purview of the proposed Advisory Council.

3. Abolish the State Forest Commission and the Flood Control Commission.

The Secretary of Forests and Waters is advised on forest matters by the State Forester, who is responsible for the 20 forest districts, the 45 state forest parks, the seven state parks, and the operations of the Divisions of Administration, of Protection, of Forest Advisory Services, of Minerals, and of Recreation.

Theoretically, the Secretary is also assisted by the State Forest Commission, which the Administrative Code designates as the advisory commission to consider, study, and advise the Department in all important matters relating to forests. The commission nominally has certain statutory duties and powers. It must approve the acquisition of land for state forests and for the growing of forest tree seedlings whether by purchase, gift, lease, exchange, or condemnation. Rules and regulations of state forest lands are adopted with the advice of the Commission. Leases or contracts for mineral rights on state forests land require the Commission's consent. Its advice is required when the Department gives municipalities the right to impound water or maintain pipe lines through the forests. Another act provides that the Commission (and the Water and Power Resources Board) must approve the boundary of land proposed to be included in a National Forest.

The Secretary of Forests and Waters is ex-officio its chairman, and there are four other members, all of whom serve without pay. Only the expenses incurred in attending Commission meetings are reimbursed. But prior to the administration of the present Secretary, the Commission rarely met, being called into session as infrequently as twice in an entire administration. Legislation enacted since 1949 has not required the Commission's consent to departmental action.

The State Forest Commission can be dispensed with, as past practice indicates. As an economy measure its elimination would not be significant, and the statutes mentioned above would have to be amended to avoid any danger of a cloud on titles to lands and mineral interests, but the operations of the Department would be simplified, time would be saved for a conscientious Secretary, and the danger of overlooking the need for Commission approval of a limited number of actions would be eliminated. Competent, conscientious Secretaries do not need the Commission and the other type will not use it.

Our laws concerning waters are administered primarily by the Department of Forests and Waters, its Water and Power Resources Board, and the Sanitary Water Board of the Department of Health, although other agencies such as the Public Utility Commission, the State Planning Board, and the General State Authority play roles of varying importance.

The Secretary of Forests and Waters' departmental water responsibilities are discharged with the advice and assistance of the Department's Chief Engineer, who in turn is responsible for the Division of Encroachments, Division of Dams, Division of Flood Control, and Division of Hydrography.

If the Flood Control Commission is looked upon as a planning agency, such functions can better be discharged by the proposed Advisory Council, if it is regarded as an emergency or disaster relief agency, those responsibilities have been vested in the State Council of Civil Defense.

4. Place the parks boards in an advisory status, and vest full responsibility for the parks program in the appropriate central operating agencies.

The members of the parks boards perform valuable services, in doing historical research, promoting public interest, and assisting parks executives in obtaining funds and gifts from private persons. These public-spirited persons should not have their function adulterated by devoting time and energy to routine or marginal administrative details.

Commonwealth institutional boards, since they do not have a rule-making or adjudicatory role (like the independent and ex-officio regulatory boards), should be placed in an advisory role.

It is a sound rule of administration that a worker should have only one boss, and should know who that boss is. This rule is deceptively simple, and consequently is frequently overlooked.

NEWSPAPER INFORMATION FOR RELEASE TO MONDAY AFTERNOON PAPERS MARCH 25, 1957

COMMISSION ON GOVERNMENTAL REORGANIZATION
COMMONWEALTH OF PENNSYLVANIA

To the Honorable the Members of the General Assembly of the Commonwealth of Pennsylvania:

Pursuant to the Act of 1955, July 7, P. L. 256, the Commission on Governmental Reorganization is pleased to submit for your consideration several recommendations relating to Public Welfare.

1. Change the basis of payment of state monies to private institutions taking care of state wards from a subsidy system to a purchase-of-services system.

The amount of payment from tax funds to institutions and agencies for services to individuals should be commensurate with the quantity and quality of the service rendered and its total cost, and should not be granted by lump sum payments or on the principle of budget deficits.

At the present time private hospitals, for instance, receive $8.00 per bed day for medically indigent patients regardless of the quality or cost of the service.

Our proposal contemplates that the total appropriation for hospital care in private institutions will be made to the Department of Public Assistance. Since total financial needs cannot be estimated exactly for a biennium, and since the General Assembly may not wish to increase the total appropriation so as to accommodate average daily charges of $14.80 instead of $8.00, it is recommended that the Department of Public Assistance pay one-half of the charges as they arise, and distribute the remainder of the total appropriation on a pro rata basis at the end of the fiscal period.

Payment should be made only for services which meet minimum standards of quality established by competent and recognized authority.

The unit of state government administering payments for service should maintain fiscal control over the operation.

Subsidized services to individuals should be based on rules of need and eligibility, applying equally to all citizens of Pennsylvania.

2. Assign to the Department of Public Assistance the responsibility of determining eligibility to receive care at private hospitals when such care is paid for in full or in part by the state.

Eligibility is now determined by an employe of the hospital, who is in no position to make field investigations and verify statements made by applicants. The Department of Welfare reimburses the hospital on the basis of reports submitted by it, and makes no basic field audit.

The best that can be said for this system is that it is inefficient and wasteful of state funds. But it also must be mentioned that political and other types of favoritism obtrude themselves, and some patients may be excused from paying who are capable of paying.

3. Transfer to private agencies the ten medical and surgical hospitals now administered by the Department of Welfare.

It is appropriate that the Commonwealth maintain hospitals for mental and tuberculous patients, but the ownership and operation of general hospitals in the United States is deemed to be the responsibility of cities, counties, private corporations, and religious and charitable groups. It is appropriate that the state should operate these hospitals, it is appropriate that the state should expand their number, so that all sections of the state may benefit equally from the largess.

Specifically, it is recommended that the General Assembly declare its intention of suspending appropriations to these institutions as of 31 May 1959, and that the Department of Welfare be instructed to negotiate with the private groups referred to above with a view to relinquishing them at terms most favorable to the state.

If the General Assembly does not elect to follow this suggestion, the Commission recommends that these hospitals be transferred to the Department of Health.

4. Create an administrative Board of Public Recreation in the Department of Internal Affairs, composed of a majority of professional recreationists. This Board should have an adequate appropriation.

Provide by law that recreation facilities owned by school districts be made available to authorized municipal recreation agencies.

The objective sought in making this recommendation is to recognize the growing importance of public recreation as a means of raising the cultural level of many of our citizens, guiding marginal persons away from criminal practices, bestowing upon our increasing numbers of elderly persons the opportunities for pleasant and constructive use of their leisure, and supplementing the lessons in good citizenship taught in our schools.

This recognition may be implemented by adopting the following policies:

1. Create a positive design of recreational services to be provided by the Commonwealth for its citizens directly and for its citizens indirectly through local units of government, and enact this design into law.
2. Give local governments expert consultant service, upon request of the appropriate public official, on such recreation problems as community organization, program planning, budget and finance, preparation of master plans, personnel selection and training, planning areas and facilities, legislation, surveys, and coordinated school-part-recreation programs.
3. Plan state-wide recreation programs on areas and facilities under the jurisdiction of the state, acting in cooperation with other administrative departments, boards and commissions.
4. Assist the appropriate authorities in state institutions to plan and carry out programs of recreational therapy in such institutions.
5. Make the vast resources of the school available for community recreation, when not being used for educational purposes, under responsible auspices. The schools should be authorized to pursue the objective of education for recreation, so that persons may learn the skills and abilities necessary for full enjoyment of many recreational pursuits.

COMMISSION ON GOVERNMENTAL REORGANIZATION
COMMONWEALTH OF PENNSYLVANIA

FISCAL AFFAIRS

To the Honorable the Members of the General Assembly of the Commonwealth of Pennsylvania:

Pursuant to the Act of 1955, July 7, P. L. 256, the Commission on Governmental Reorganization is pleased to submit for your consideration forty-three recommendations. In addition, we are making twelve recommendations to the Governor, relating to changes which can be made without legislative action.

The Commission was organized in May, 1956. Twelve

members were appointed by the Governor, of whom, ten served. The names of those who participated in the deliberations of the Commission, with the officers and staff, follow:

Anthony J. Drexel Biddle, Jr., Adjutant General, Chairman
George N. Wade, Senator from Cumberland County, Vice-Chairman
Genevieve Blatt, Secretary of Internal Affairs
Leonard P. Fox, Executive Director, Pennsylvania State Chamber of Commerce (now retired)
Albert W. Johnson, Representative from McKean County
William J. Keefe, Professor of Political Science, Chatham College
Henry B. Leader, Governor's Legislative Secretary
Albert S. Readinger, Representative from Berks County
John S. Rice, Secretary of Property and Supplies
Paul H. Wueller, Associate Director in charge of Research and Statistics, Joint State Government Commission

James C. Charlesworth, President, American Academy of Political & Social Science, served as Executive Director, and Stephen B. Sweeney, Director of the Institute of Local and State Government, University of Pennsylvania, acted as principal consultant.

Early in the summer of 1956 the Commission engaged the services of twelve persons having skills in the field of State government, who prepared reports during the summer months. Among these are several state employes who received no additional compensation for their services. The names of these authorities and the subjects of their reports follow:

Harold F. Alderfer—Local Governments
A. David Bouterse—Public Hospitals; Correction; Public Assitance
Robert A. Christie—Labor and Industry; Professional Licensure
James A. Crabtree—Public Health
Charles B. Cranford—Recreation
John H. Ferguson—Agriculture; Milk; Public Utilities
Roy A. Helton—Public Information
C. Herschel Jones—Personnel Administration
Albert B. Martin—Records and Secretarial Functions
M. Nelson McGeary—Public Education; Public Works
William F. Schultz, Jr.—Conservation of Natural Resources
Randall S. Stout—Fiscal Administration

Members of the Commission individually studied these reports and other materials bearing upon pertinent activities of the State government, and the Commission met from early October until March to discuss each proposal. The Commission wishes to thank the officers of the Senate for making the Conference Room available for these meetings.

The General Assembly is doubtless interested in whether the recommendations made by the Commission, if adopted, will save money. An exact estimate of savings cannot be made, but the Commission is confident that its proposals will not only improve government but reduce the total charge on the taxpayer. Savings of the magnitude of millions of dollars per year are definitely indicated in lowered interest payments, improved personnel, closer auditing practices, and elimination of administrative duplications.

Our recommendations to the General Assembly are classified under seven headings, as follows:

1. Fiscal Affairs
2. Personnel Administration
3. Administrative Organization; Public Buildings
4. Conservation of Natural Resources
5. Public Welfare
6. Public Health
7. Public Instruction; Labor

Proposals relating to these separate subjects will be submitted at short intervals. This present submittal relates to

Fiscal Affairs

1. Designate the Joint State Government Commission as the staff agency of the General Assembly for the purpose of assembling and analyzing budget information. Direct executive agencies to make available to the Commission information relative to estimated financial needs to carry on existing programs and to meet statutory mandates, during the period of the preparation of the budget and make available to the Commission similar information on new and expanded programs after such programs have been approved by the Governor.

The fiscal problem is the Commonwealth's most pressing problem. Both the Executive and the Legislative branches must bear responsibility for its solution. But if the General Assembly is to contribute its proper share of this joint effort it must first of all be adequately informed.

In making this recommendation the Reorganization Commission does not intend to diminish the role of the Governor in preparing the budget. We believe that the executive type of budget is the best. Our purpose is to enable legislators to know in advance of the release of the printed document the general lines of its development, so that they may begin early to weigh alternatives and to plan for needed revenues.

Another reason for bringing the two branches closer together in fiscal affairs is the heavy emphasis on subsidies. If the state budget covered only the expenses of operating the executive departments, the General Assembly might well assume that the duty of accurately measuring needs could be appropriately left to the Chief Executive. But since such a large part of state expenditure consists of subsidies rather than of execution of state programs, it is proper that both of the policy making branches be equally aware of the reasons for expanding programs.

2. Create an independent tax appeal board, consisting of one lawyer, one accountant, and one member familiar with tax matters, serving full-time. This agency would resettle tax cases presently handled by the Board of Finance and Revenue, and make cash refunds. Also, time limitations now imposed by the Fiscal Code should be revised.

The Board of Finance and Revenue now labors under certain limitations, as follows:

a. It consists of part-time ex-officio members representing some departments that are not concerned with tax functions, whereas other members sit on appeals from the administrative actions of their own departments.
b. It does not codify its rulings or legal recognitions.
c. It is usually understaffed.

d. There is poor interdepartmental liaison.

e. There is no tenure, and no proper qualifications for its staff.

f. It cannot by statute grant tax cash refunds.

g. It is not an independent appellate group in the strict sense of this term.

h. Time limitations imposed by the Fiscal Code are in some instances unrealistic in terms of conditions.

3. Create a permanent tax and fiscal research agency, which would bring together pertinent activities in the Legislative and Executive branches. This agency should be composed of equal numbers of designees of the Governor and of the General Assembly, and should be adequately staffed. It should report annually and on special request to either the Governor or to the General Assembly or to both of them. For administrative purposes, the agency should be attached to the Joint State Government Commission.

An adequate fiscal research program is necessary in order that the public, the Governor, and members of the General Assembly may be properly informed concerning the nature of the tax structure, the expenditure programs, and revenue requirements for financing them. Research is essential for the formulation of a state's fiscal policies and long-term programs. In spite of recurring fiscal crises, Pennsylvania has never had adequate fiscal research facilities. Further evidence of this serious defect in the Commonwealth's fiscal programs is indicated by the numerous legislative and special emergency tax study committees which have been set up within the past decade in order to provide the General Assembly and the Governor with adequate facts. At present, the General Assembly has a special committee to "get the facts" concerning the Commonwealth's tax burdens and their effects on industrial development and migration.

The responsibility for tax research should be jointly assumed by the Executive and the Legislative branches. This inter-branch unit should be given regular budget status, should be headed by a director, and should be adequately staffed and equipped. It should carry on continuous research concerning the nature, effects, and operations of the tax system; it should prepare the official revenue estimates, and should prepare adequate annual and special reports designed to give taxpayers an understanding of the operation of the state's tax system and its needs for revenues.

4. Provide for annual sessions of the General Assembly.

The principal reason for this recommendation is the fiscal situation. In a rapidly moving economy, and with the close interrelationship between government finance and the general economic well-being of the Commonwealth, two years is now too long to project budget and tax needs.

The General Assembly may wish to restrict the session in even-numbered years to consideration of fiscal matters.

5. a. Amend the Constitution, to allow the General Assembly to fix the state debt limit for capital purposes by joint resolution passed by a two-thirds vote.

b. Abolish all state authorities and place future projects in appropriate departments of the state government. Refund authority indebtedness, at a favorable market date, with money obtained through the issue of general obligation bonds.

c. Raise constitutional school district and other local government debt limits, so that the device of local authorities need not be resorted to.

It is believed that these proposals, if adopted, will save the citizens of Pennsylvania many millions of dollars, since it is generally recognized that the interest rate on state general obligation bonds is usually lower than on authority and other "revenue" bonds.

The question readily suggests itself: If this is so, why were the authorities created in the first place? The answer is that the authority device was the most expedient one to finance improvements promptly without resorting to the time-consuming procedure for submitting a constitutional amendment to popular vote.

It has been felt in certain circles that the citizens of the state are not willing to depend upon an adequate sense of restraint in the General Assembly, when it comes to incurring debt. This opinion warns against allowing the General Assembly to open the floodgates of irresponsible spending and of passing on our burdens to the next generation. But we are nonetheless incurring huge debts, in the semi-public, semi-private, financial operations of authorities. The members of the Reorganization Commission feel that the time has come to make a forthright accounting to the citizens of Pennsylvania on how much they owe, both directly through state government bonds and indirectly through authority bonds. We further believe that indirection should be avoided in the future, and that the people should be currently and fully informed on state borrowings.

The national debt limit is fixed by a vote of Congress, where an alert public opinion enforces a salutary degree of restraint. We believe that a similar arrangement will function satisfactorily in Pennsylvania.

In the case of limits on local debt, we believe that here, too, the General Assembly should be given the responsibility of fixing the ceiling for units of local government by classes.

The possibility of savings on interest payments by local school districts is an immediate concern of the General Assembly. School districts subsidies need not be so large if savings can be effected in the cost of financing our school building program.

EXHIBIT No. 1

Honorable A. H. Letzler
Secretary of the Senate
Senate of Pennsylvania
Harrisburg, Pennsylvania

My dear Mr. Letzler:

I acknowledge receipt of the resolution of the Senate dated February 26, 1957, in which I am directed to "submit to the Director of the Joint State Government Commission on or before March 4, 1957" specifically mentioned data relative to scholarships granted to Medical students.

This is to advise you that this Department has neither set up nor granted any scholarships to Medical students.

However, I assume from newspaper articles that it is quite possible that the Senate had in mind the program which this Department is carrying on in connection with the training of graduate students in the fields of psychology, social services, therapy (occupational, industrial, recreational) and nursing.

I am preparing a full and detailed statement of the program, including the names and addresses of the students, the schools, the financial assistance and the terms and conditions upon which these trainees are admitted into the program. I hope to be able to have that statement finished early next week. I trust you will bring this matter to the attention of the Senate.

With kindest personal regards, I am

Sincerely yours,

HS: isk

Harry Shapiro (signed)
Secretary of Welfare

Exhibit No. 2

December 12, 1955.

Ed Kemena, Assistant Director
Bureau of Disbursements
Office of the Auditor General
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

My dear Mr. Kemena:

Your letter of December 9, 1955, addressed to Mr. George A. Reel of this Department, has been referred to me for reply.

Requisition No. 102 on Symbol No. 521035, in the amount of $3292.26 represents a payment on a training program which is part of the Department of Welfare's "Research and Training of Personnel" which is so essential in order to promptly fill the gap caused by the shortage of trained professional and technical personnel in the field of psychiatry.

The authority for issuing the Purchase Request is found in the Administrative Code Section 507 Clause C, reading as follows:

"Notwithstanding any of the foregoing provisions of this Section, any Department, Board or Committee may: (1) . . . . . (2) . . . . . (4) Employ professional or skilled labor on a temporary basis in institutions where the Department of Property and Supplies does not have applicable contracts, but all such employees shall be approved by the Governor except in cases of State Institutions it shall be approved by the head of the Department having supervision over the Institution."

The arrangement for the payment of these funds was made by the Philadelphia State Hospital and the Norristown State Hospital with whom Bryn Mawr College has agreed to furnish the professional skill necessary to train Social Workers for the two (2) institutions above named.

You will be receiving these Requisitions from time to time because we have made similar arrangements with the University of Pennsylvania; University of Pittsburgh; Pennsylvania State University and Temple University for the training of Psychologists for our various mental institutions and very shortly will be arranging for similar professional services for training of Psychiatrists and Occupational Therapists.

Since it is important for the well being of the patients that this program proceed with full-speed-ahead, I will appreciate it very much if you will write and let me know if there is any further information you want because any failure to make prompt payment may interfere with the progress of the work.

With kindest personal regards, I am

Sincerely yours,

Secretary
Department of Welfare

HS:icc
cc: Mr. Reel
Mr. Lourie

Exhibit No. 3

January 20, 1956

Honorable Harrington Adams
Deputy Attorney General
Department of Justice
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

Dear Mr. Adams:

Following my conversation with you, I am enclosing three contracts dated October 1, 1955, as follows:

Between the University of Pennsylvania
School of Social Work and Philadelphia
State Hospital

Between the University of Pittsburgh
School of Social Work and Pennsylvania
Training School

and

Between Bryn Mawr College and Philadelphia
State Hospital

for consultation services for state training.

These contracts have been approved by me under the provisions of the Administrative Code which authorizes the institution itself to make such contracts upon approval of the Secretary of Welfare.

As I told you on the telephone, Mr. Eshbach of the Auditor General's Department, has the impression that the Attorney General's Office has raised some question about the authority of the institution to make such contracts.

These payments have been so long delayed that there is danger of the destruction of the program which we have initiated to supply much needed help to the institutions which we can not otherwise get and therefor anything that you can do to accelerate prompt action will be greatly appreciated.

The attached copies are the only copies remaining in the Department of Welfare and I would appreciate if you would return them to me after they have served their purpose.

Sincerely yours,

Secretary
Department of Welfare

HS:icc
Attachments—3

Exhibit No. 4

CONTRACT
Between
Department of Welfare
And
University of Pittsburgh

The parties to this contract agree to the following provisions:

1. The Univesrity of Pittsburgh, hereafter called the University, will accept as students for the academic session September 1956 to June 1957 such individuals as may be jointly selected by the University and the Secretary of Welfare. The University will provide these stu-

dents with academic instruction and supervised practice at rates of tuition as shown.

	Fall Semester	Spring Semester
Watkins, Thelma	$272.00	$240.00*
Haley, Betty	$240.00	$240.00*
Lucas, Mary Jane ...	$240.00	$240.00*
Hunter, Frederick ...	$256.00	$240.00*

*Estimated

This instruction and practice will be the same in all respects as the instruction and practice furnished other students of the University taking the same or similar courses.

2. The University will bill the Department of Welfare in accordance with the practice followed for all other students. Those bills will be itemized and will specify the name of the student, the amount of the tuition for each student, the course of instruction and the academic period covered by the bill.

3. In the event any student leaves the University before the completion of the academic year, the University will immediately notify the Department of Welfare. The University agrees to submit to the Department of Welfare on the 15th day of each month, a report showing the attendance of each student covered by this contract during the previous month. The University also agrees to furnish the Department of Welfare with an academic progress report at the close of each semester of training.

UNIVERSITY OF PITTSBURGH

Date November 14, 1956 University
By (Signed)
W. F. Vieh (Title) Asst. Chancellor
Business Affairs
By Signed
Alan C. Rankin (Title) Acting Sec'y
The Pennsylvania Department of Welfare
Date November 27, 1956
By (Signed)
By Norman V. Lourie, (Signed)
Secretary of Welfare
By (Signed)
Comptroller

Exhibit No. 5

AGREEMENT

The Department of Welfare agrees to pay Donald Armsby the sum of $124.00 bi-weekly from September 17, 1956 to June 7, 1957 in preparation for employment with the Department of Welfare. In addition, tuition as agreed upon will be paid on his behalf.

In recognition of this full period of training, Donald Armsby agrees to accept suitable employment by the Department of Welfare on a basis of one year's employment for each year of academic training received and also agrees to join the State Retirement System effective September 17, 1956.

If Donald Armsby does not accept employment for the period required, he agrees to repay to the Department of Welfare the amount of salary payments paid to him and the amount of tuition paid on his behalf.

This agreement is contingent upon the said Donald Armsby remaining in good academic standing at the university involved and abiding by the laws of the Commonwealth of Pennsylvania regarding employment. The agreement may be renewed by the Secretary of Welfare for an additional one, two or three year period.

DEPARTMENT OF WELFARE

October 11, 1956
By Donald H. Armsby (Signed)
Student
November 27, 1956
By Norman V. Lourie, Executive Sec'y
Secretary of Welfare (Signed)

Exhibit No. 6

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF WELFARE

The Professional Training Program

The Department of Welfare's training program applies to the following fields: clinical psychology, nursing education, occupational therapy, rehabilitation, social work and the teaching of exceptional children. However, students in clinical psychology must have completed their first graduate year before applying.

Assistance during graduate study will consist of:

a. Payment of tuition, by contract with accredited professional schools in Pennsylvania, up to $750 annually for each person accepted, and
b. A biweekly stipend paid directly to the student for the period* September 15 to June 15, of
   $ 84.00 the first year
   112.50 the second year
   124.00 the third year
   143.50 the fourth year

Stipends will be paid as salary from the Department's headquarters budget; therefore, duductions will be made for state retirement. The U. S. Internal Revenue Service has advised that the stipend and tuition will be subject to income tax, which, of course, will vary with each individual.

Whenever possible, summer employment in facilities of the Department will be offered to students.

It is expected that persons who have received professional training under the Department's plan will accept regular employment by the Department of one calendar year for each academic year. An agreement to this effect, which is part of the application, must be signed before the form is submitted. Each succesful applicant will be notified of arrangements for a representative of the Department to discuss the agreement with each student before school, opens, if possible, or very soon afterward.

Clinical practice (field work) required as part of a regular curriculum or to fulfill Ph.D. requirements should be done primarily in facilities administered by the Department but may be done in those which receive funds from or through the Department. In unusual instances, when an individual student's development requires it, Departmental approval may be given for a practice assignment in a non-state-owned or non-state-aided facility. However, it is the objective of the Department that state-owned facilities be used to the maximum.

Lists of state-owned and aided facilities have been sent to the professional schools and include state mental institutions, state general hospitals, Pennsylvania Training

School, grant-in-aid mental health and child guidance clinics, state-aided general hospitals and state-aided institutions and agencies (including some County Institutional Districts) for children and others. Clinical practice in some fields may also be done in the headquarters and regional offices of the Department.

*Since the original stipend schedule was set up, a new Commonwealth pay scale has been established and salary payments are to be made bi-weekly instead of semi-monthly.

Professional schools will be responsible for evaluating the education opportunities offered by these facilities, and for deciding which ones meet their standards. The amount of clinical practice expected of students in each professional field will be the number of hours required of any student in that curriculum. Clinical psychology students will be expected to complete the required practice during the 3 years scholarship period.

The training program is not restricted to employes of the Department of Welfare. To be eligible, however, applicants must have been accepted for enrollment by an accredited professional school in Pennsylvania.

The training program outlined above replaces prior programs carried on by the Department or its facilities except that of the Bureau of Children's Services which is carried on with Federal funds. In-service training programs will be conducted as separate undertakings of the Department. Mental hospitals will continue to hire psychologists as regular employes for their interneship year.

Application forms have been sent to the porfessional schools and to state institutions. They may also be obtained from Miss Helen McManus, Bureau of Program and Community Planning, Pennsylvania Department of Welfare, Harrisburg.

Applications should be completed, in duplicate, by the student and by an officer of the professional school to be attended and forwarded by the school or by the student to Miss Helen McManus, Bureau of Program and Community Planning, Pennsylvania Department of Welfare, Harrisburg.

Employees of the Department will, in addition, obtain the signature of the administrator of the facility where they are employed, (i.e., superintendent, bureau director, etc). in the lower left hand corner.

Questions on the use of state facilities for clinical practice should be addressed by the school to the appropriate bureau director.

Council for the Blind—Mr. George Dauth
Bureau of Mental Health—Dr. Hilding Bengs
Bureau of Children's Services— Miss Helen Hubbel
Bureau of Homes and Hospitals—Mr. Ira Mills
Bureau of Services for the Aging—Mr. Elias Cohen

July 11, 1956
Revised August 1, 1956

COMMONWEALTH OF PENNSYLVANIA

PEPARTMENTOF WELFARE

"WELFARE HEADQUARTERS"

Stipends of Students—"Research & Training, Expenditures"—Symbol No. 521067—By Vouchers. Period from September 17, 1956 to January 4, 1957.

	1	2	3	4	5	6	7	8	Total
	9/17/56 to 9/28/56	9/29/56 to 10/12/56	10/13/56 to 10/26/56	10/27/56 to 11/9/56	11/10/56 to 11/23/56	11/24/56 to 12/7/56	12/8/56 to 12/21/56	12/22/56 to 1/4/57	9/17/56 to 1/4/57
University of Pittsburgh (Social Works)									
Keenan, Shirley	$16.80	$84.00	$84.00	$84.00	84.00	$84.00	$84.00	$84.00	$604.80
Ramsey, Duane	84.00	84.00	57.00 112.50	112.50	112.50	112.50	112.50	112.50	900.00
Stewart, Albert	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
Dear, Ronald	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
Phifer, Eleanor	22.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	810.00
Griffith, Barbara	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
McConnell, Beverly	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
McClellan, Almeda	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
Staudt, Patricia	16.80	84.00	84.00	84.00	84.00	84.00	84.00	84.00	604.80
Helsel, Albert	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
Nunemacher, Elmer	....	75.60	84.00	84.00	84.00	84.00	84.00	84.00	579.60
Ullery, Harriet	....	84.00	84.00	84.00	84.00	84.00	84.00	84.00	588.00
University of Pittsburgh (Nursing)									
Watkins, Themla J.	75.60	84.00	84.00	84.00	84.00	84.00	84.00	84.00	663.60
Haley, Betty	84.00	84.00	84.00	84.00	....	....	....	....	336.00
Lucas, Mary Jane	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
Frederick, Hunter	75.60	84.00	84.00	84.00	84.00	84.00	84.00	84.00	663.60
Pennsylvania State University (Clinical Psychology)									
Levine, Byrna	124.00	124.00	124.00	124.00	62.00	124.00	124.00	124.00	930.00
Williams, Thomas	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
Scott, Thomas	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
LaGuidice, Anthony	124.00	124.00	124.00	124.00	124.00	124.00	124.00	124.00	992.00
Whalen, Donald	$112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	$900.00
Panza, Joseph	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
Robb, Luther	....	....	....	**336.00	84.00	84.00	84.00	84.00	672.00
Beltz, Stephen	....	....	....	**496.00	124.00	124.00	124.00	124.00	992.00
Wilson, Jack	....	....	....	**496.00	124.00	124.00	124.00	124.00	992.00
Pennsylvania State University (Vocational Rehabilitation)									
Moran, John	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00

University of Pennsylvania (Clinical Psychology)									
Groves, Dolores	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
Roland, Diane	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
Peastrel, August	124.50	124.50	124.50	124.50	124.50	124.50	121.00	124.50	992.00
University of Pennsylvania (Social Work)									
Starr, Harry	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
Keating, Jeanne	....	84.00	84.00	84.00	84.00	84.00	84.00	84.00	588.00
Procko, Neonila	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
Gattas, Francis	....	42.00	84.00	84.00	Resigned	....	....	....	210.00
Sub Total	$2,291.30	$2,818.10	$2,954.00	$4,225.00	$2,999.00	$3,061.00	$3,057.50	$3,060.50	$24,466.40
**Started 9/17/56 — 4 x $84.00 = $336.00						**Started 9/17/56 — 8 x 124.00 = $992.00			
University of Pennsylvania (Nursing)									
Harges, Katherine	....	84.00	....	84.00	84.00	....	....	....	$252.00
Martin, Vera	124.00	124.00	124.00	124.00	124.00	124.00	124.00	124.00	992.00
Cecci, Frances	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
University of Pennsylvania (Occupational Therapy)									
Moore, Jean	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
Lee, Barbara	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
Wilkes College (Nursing)									
McHugh, Terrence	84.00	42.00	84.00	84.00	84.00	84.00	84.00	84.00	630.00
Bryn Mawr (Social Work)									
Scaran, Isabelli	....	75.60	84.00	84.00	84.00	84.00	84.00	84.00	579.60
Molitor, Albert	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
Holmes, Florence	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
Goodsitt, Bernice	143.50	143.50	143.50	143.50	143.50	143.50	143.50	143.50	1,148.00
Jacksier, Valerie	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
Middleton, Rose	....	84.00	84.00	84.00	84.00	84.00	84.00	84.00	588.00
Rosenstock, Joseph	84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00	672.00
Temple University (Clinical Psychology)									
Young, Maxim	112.50	112.50	112.50	112.50	112.50	112.50	112.50	56.25	843.75
Ryan, Frank	124.00	124.00	124.00	124.00	124.00	124.00	124.00	124.00	992.00
Olson, Norman	124.00	124.00	124.00	124.00	124.00	124.00	124.00	62.00	930.00
Brecher, Harold	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
Sidney, Leon	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
Rosenfeld, Joseph	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
Saxton, George	112.50	112.50	112.50	112.50	112.50	112.50	112.50	112.50	900.00
Ormsby, Donald	....	....	124.00	124.00	124.00	124.00	124.00	124.00	744.00
Sub Total	$1,807.00	$2,003.60	$2,099.00	$2,183.00	$2,183.00	$2,099.00	$2,099.00	$1,980.75	$16,459.35
Grand Total	$4,098.30	$4,826.70	$5,053.00	$6,408.00	$5,182.00	$5,160.00	$5,156.50	$5,041.25	$40,925.75

Press Release No. 572.
Newspaper Information for release to Wednseday Morning Papers, April 4, 1956.

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
HARRISBURG

April 3, 1956.

Research into the problems of mental illness will receive long-needed boost under the terms of a bill introduced in the Senate today.

The Administration measure would coordinate all research effort—public and private—now being carried on within the Commonwealth in the field of mental health.

A special State agency—to be called the Commonwealth Mental Research Foundation—would be created for this purpose.

It would be up to the Foundation to work hand-in-hand with the Commonwealth's medical centers on research within the State's twenty-two mental institutions.

Not only would the Foundation stimulate research into the critical problems of mental illness, but it would coordinate the over-all effort and help give it direction.

Administration spokesmen expained that once the Foundation is established, the Commonwealth will be eligible for research grants from private foundations devoted to the physical sciences and public health. Without such a Foundation, the Commonwealth is unable to obtain such private grants.

No appropriation is sought in the measure. The Foundation will depend upon two sources of revenue: funds already earmarked for research and alloted to the Department of Welfare; and grants from outside sources.

The bill also provides that any patents or discoveries resulting from a research project sponsored by the Foundation would belong to the State agency.

On of its most important features, Administration spokesmen said, is that the Foundation's coordinated program would attract men and women to Pennsylvania who seek training in the field of mental health. Many of these, it is believed, would remain within the Commonwealth and help man the currently depleted staffs of our State mental hospitals.

Under the bill's provisions, the Foundation would be administered by a board of 11 trustees, consisting of the Governor, the Secretary of Welfare, and nine others appointed by the Governor for staggered terms of three years each. All trustees would serve without compensation under the chairmanship of the Secertary of Welfare.

The Foundation's board of trustees would receive technical assistance from a nine-man Research Advisory Board—to be made up of experts in the field of mental health research. Six of these nine would represent those Pennsylvania medical schools, universities and mental institutions which presently have active research departments.

Represented on the Research Advisory Board, therefore, would be: the School of Medicine of Temple University; the School of Medicine of the University of Pennsylvania; the School of Medicine of the University of Pittsburgh; Pennsylvania State University; the Eastern Psychiatric Institute; and Carnegie Institute of Technology.

It would be the duty of the Research Advisory Committee to select and supervise the Foundation's research projects, emphasizing such programs of personnel training and research as could be carried out in Pennsylvania's State hospitals.

HARRISBURG HOSPITAL

Harrisburg, Pennsylvania

August 1, 1956

The Honorable George Leader
Governor, Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

Dear Governor Leader:

Pursuant to Section 13 of the Act of December 22, 1951, P. L. 1726, the Harrisburg Hospital submits the following report:

1. The Harrisburg Hospital maintains and operates an approved School of Nursing and receives State aid for the training of student nurses under Act 91A of the 1955 General Assembly.

2. The undersigned is closely acquainted and in frequent communication with the Director of the School of Nursing, who is known to be not a subversive person. Said Director, being closely acquainted with all instructors and other employed in an official capacity with reference to the School of Nursing, has informed the undersigned that there are no subversive persons among them. The careful screening of characters and reputation incident to appointment of instructors and others connected with the School of Nursing, and the regular and close relationship imposed among these by the very nature of their duties, precludes any of them being subversive without knowledge thereof coming to the undersigned.

3. The undersigned therefore sets forth unequivically that Harrisburg Hospital has no reason to believe that there is in its employ any instructor or other persons in any official capacity with reference to its School of Nursing who is a subversive person.

Copies of this report are being furnished to the President of the Senate and to the Speaker of the House of Representatives.

Very truly yours,
W. S. Kohlhaas
Superintendent

WSK/mah

LATROBE HOSPITAL

Latrobe, Pennsylvania

LOUIS C. STEINER, President
HERBERT M. KRAUSS, Administrator
August 1, 1956
The Honorable George M. Leader
Governor, Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

Dear Governor Leader:

Pursuant to Section 13 of the Act of December 22, 1951, P. L. 1726, the Latrobe Hospital submits the following report:

1. The Latrobe Hospital maintains and operates an approved School of Nursing and receives State-aid for the training of student nurses under Act 131A of the 1951 General Assembly.

2. I am well acquainted with and in daily communication with the Director of our School of Nursing, Miss Mary K. Harris, who is known to be not a subversive person. She is closely acquainted with all instructors and supervisors employed in an official capacity with reference to the School of Nursing and she has informed me that there is no subversive person among them. We carefully screen all applicants for positions in the School of Nursing as to their character and reputation and loyalty. This applies to all others connected with the School of Nursing. The daily and close relationship

between these employees and the Director of Nursing, as well as myself, precludes any of them being subversive without knowledge thereof coming to our attention. This is especially true in so small a community as Latrobe.

3. I therefore state unequivocally that Latrobe Hospital has no reason to believe that we have in our employ any instructor or other person in any official capacity with reference to our School of Nursing who is a subversive person.

Copies of this report are being furnished to the President of the Senate, Hon. Roy E. Furman, and to the Speaker of the House of Representatives, Hon. Hiram G. Andrews.

Sincerely yours,

LATROBE HOSPITAL
Herbert M. Krauss
Administrator

WILKES-BARRE GENERAL HOSPITAL
CORNER NORTH RIVER AND AUBURN STREETS
WILKES-BARRE, PENNSYLVANIA

August 1, 1956.

The Honorable George M. Leader,
Governor, Commonwealth of Pennsylvania,
Harrisburg, Pennsylvania.

Dear Governor Leader:

Pursuant to Section 13 of the Act of December 22, 1951, P. L. 1726, the Wilkes-Barre General Hospital submits the following report:

1. The Wilkes-Barre General Hospital maintains and operates an approved School of Nursing and receives State-aid for the training of student nurses.

2. The undersigned is closely acquainted and in frequent communication with the Director of the School of Nursing, who is known to be not a subversive person. Said Director, being closely acquainted with all instructors and others employed in an official capacity with reference to the School of Nursing, has informed the undersigned that there are no subversive persons among them. The careful screening of character and reputation incident to appointment of instructors and others connected with the School of Nursing, and the regular and close relationship imposed among these by the very nature of their duties, precludes any of them being subversive without knowledge thereof coming to the undersigned.

3. The undersigned therefore sets forth unequivocally that Wilkes-Barre General Hospital has no reason to believe that there is in its employ any instructor or other person in any official capacity with reference to its School of Nursing who is a subversive person.

Copies of this report are being furnished to the President of the Senate and to the Speaker of the House of Representatives.

Sincerely yours,

R. W. Gloman,
Administrator.

RWG/rcs
cc: Hon. Roy E. Furman,
Hon. Hiram G. Andrews.

THE LANCASTER GENERAL HOSPITAL
525 NORTH DUKE STREET
LANCASTER, PENNSYLVANIA

MEMBER AMERICAN HOSPITAL ASSOCIATION
AND
HOSPITAL ASSOCIATION OF PENNA.

August 1, 1956.

The Honorable George M. Leader,
Governor, Commonwealth of Pennsylvania,
Harrisburg, Pennsylvania.

Dear Governor Leader:

Pursuant to Section 13 of the Act of December 22, 1951, P. L. 1726, the Lancaster General Hospital submits the following report:

1. The Lancaster General Hospital maintains and operates an approved School of Nursing and receives State Aid for the training of student nurses under Act 131 A of the 1951 General Assembly.

2. The undersigned is closely acquainted and in frequent communication with the Director of the School of Nursing, who is known to be not a subversive person. Said Director, being closely acquainted with all instructors and others employed in an official capacity with reference to the School of Nursing, has informed the undersigned that there are no subversive persons among them. The careful screening of character and reputation incident to appointment of instructors and others connected with the School of Nursing, and the regular and close relationship imposed among these by the very nature of their duties, precludes any of them being subversive without knowledge thereof coming to the undersigned.

3. The undersigned therefore sets forth unequivocally that Lancaster General Hospital has no reason to believe that there is in its employ any instructor or other person in any official capacity with reference to its School of Nursing who is a subversive person.

Copies of this report are being furnished to the President of the Senate and to the Speaker of the House of Representatives.

Sincerely yours,

Donald C. Smelzer, M. D.,
Executive Director.

DCS. mdm

SAINT JOSEPH'S HOSPITAL
READING, PA.
OFFICE OF ADMINISTRATOR

July 20, 1956.

Honorable Roy E. Furman,
President of the Senate,
Lieutenant Governor's Office,
Commonwealth of Pennsylvania,
Harrisburg, Pennsylvania.

Dear Honorable Roy E. Furman:

Pursuant to Section 13 of the Act of December 22, 1951, P. L. 1726, the Saint Joseph's Hospital submits the following report:

1. The Saint Joseph's Hospital maintains and operates an approved school of nursing and receives state aid for the training of student nurses under Act 131 A of the 1951 General Assembly.

2. The undersigned is closely acquainted and in frequent connection with the director of the school of nursing who is known to be not a subversive person. Said director, being closely acquainted with all instructors and others employed in an official capacity with reference to the school of nursing, has informed the undersigned that there are no subversive persons among them. The careful screening of character and reputation incident to appointment of instructors and others connected with the school of nursing; and, the regular and close relationship imposed among these by the very nature of their duties, preclude any of them of being subversive without knowledge thereof coming to the undersigned.

3. The undersigned therefore states further unequivocally that the Saint Joseph's Hospital has no reason to believe that there is in its employ any instructor or other person in any official capacity with reference to its school of nursing who is a subversive person.

Sincerely,

Saint Joseph's Hospital,
By Sister M. St. Robert,
Administrator.

ABINGTON MEMORIAL HOSPITAL
ABINGTON, MONTGOMERY COUNTY
PENNSYLVANIA

August 1, 1956.

The Honorable George M. Leader,
Governor, Commonwealth of Pennsylvania,
Harrisburg, Pennsylvania.

Dear Governor Leader:

Under Section 13 of the Pennsylvania Loyalty Act, the Abington Memorial Hospital, being a State-Aided Institution of Learning, is furnishing a written statement as follows:

(a) What procedure it has adopted to determine whether it has reason to believe that any subversive persons are in its employ;
(b) What steps, if any, have been or are being taken to terminate such employment;
(c) Unequivocally set forth that the institution has no reason to believe any subversive persons are in its employ.

SCHOOL OF NURSING

We employ approximately twenty persons in the faculty and administrative staff.

(a) Great care is taken in making appointments, not only as to the scholarly attainments of the academic group and the fitness and qualifications of the others for their particular work, but also as to the integrity and character.
(b) All academic appointments are screened through our Director of Nursing and the Educational Director prior to their employment; approval of all personnel is obtained from the Department of State Nursing, Harrisburg, Pennsylvania, and references are obtained from former employers.

It is our belief that the procedure we have adopted and enforced is adequate to prevent the employment of any subversive personnel.

Copies of this report are being furnished to the President of the Senate and to the Speaker of the House of Representatives.

Sincerely yours,

M. F. George,
Executive Director.

MFG:R

FRANKFORD HOSPITAL
FRANKFORD AVENUE AND WAKELING STREET
PHILADELPHIA 24, PENNA.

BOARD OF TRUSTEES

S. Lloyd Moore, Esq., President	William R. Wick
John G. Remmey, Vice-President	Brewer G. Walton
John C. Frey, Treasurer	Samuel K. Blumenthal
Wayne S. Evans, Secretary	Hyman Korman
Omar Shallcross	Walter B. Gossling
William L. C. Spaeth, M.D.	Francis Dougherty, Jr.
Aaron W. Hardwick	David M. Walker
Herbert W. Anderson	Raymond F. Swenson
Dr. C. E. Andrews	Charles H. Schroder
Whitman A. Rice	William Zimmerman
Rev. Albert F. Fischer, Jr.	John W. Bishop, Administrator
Robert L. Hilles	

August 1, 1956.

The Honorable George M. Leader,
Governor, Commonwealth of Pennsylvania,
Harrisburg, Pennsylvania.

Dear Governor Leader:

Pursuant to Section 13 of the Act of December 22, 1951, P. L. 1726, the Frankford Hospital submits the following report:

1. The Frankford Hospital maintains and operates an approved School of Nursing and receives State-aid for the training of student nurses under Act 131-A of the 1951 General Assembly.

2. The undersigned is closely acquainted and in frequent communication with the Principal of the School of Nursing, who is known to be not a subversive person. Said principal, being closely acquainted with all instructors and others employed in an official capacity with reference to the School of nursing, has informed the undersigned that there are no subversive persons among them. The careful screening of character and reputation incident to appointment of instructors and others connected with the School of Nursing, and the regular and close relationship imposed among these by the very nature of their duties, precludes any of them being subversive without knowledge thereof coming to the undersigned.

3. The undersigned, therefore, sets forth unequivocally that Frankford Hospital has no reason to believe that there is in its employ any instructor or other person in any official capacity with reference to its School of Nursing who is a subversive person.

Copies of this report are being furnished to the President of the Senate and to the Speaker of the House of Representatives.

JOHN W. BISHOP,
Administrator.

Copies to:
The Honorable Roy E. Furman
Lieutenant Governor and President of the Senate
The Honorable Hiram G. Andrews
Speaker, The House of Representatives

August 1, 1956.

The Honorable George M. Leader
Governor of Pennsylvania
Harrisburg, Pa.

Dear Governor Leader:

Pursuant to Section 13 of the Act of December 22, 1951, P. L. 1726, the Hahnemann Hospital submits the following report:

1. The Hahnemann Hospital maintains and operates an approved School of Nursing and receives State-Aid for the training of student nurses under act 1632 of the 1955 General Assembly.

2. The undersigned is closely acquainted and in frequent communication with the Director of the School of Nursing, who is known to be not a subversive person. Said Director, being closely acquainted with all instructors and others employed in an official capacity with reference to the School of Nursing, has informed the undersigned that there are no subversive persons among them. The careful screening of character and reputation incident to appointment of instructors and others connected with the School of Nursing, and the regular and close relationship imposed among these by the very nature of their duties, precludes any of them being subversive without knowledge thereof coming to the undersigned.

3. The undersigned therefore sets forth unequivocally that Hahnemann Hospital has no reason to believe that there is in its employ any instructor or other person in any official capacity with reference to its School of Nursing who is a subversive person.

Copies of this report are being furnished to the President of the Senate and to the Speaker of the House of Representatives.

Sincerely yours,

JOSEPH W. BISHOP,
Administrator.

JWB:cgg

WYOMING VALLEY HOSPITAL
149 Dana Street
Wilkes-Barre, Pennsylvania

July 18, 1956.

The Honorable Roy E. Furman
Lieutenant Governor's Office
Harrisburg, Pa.

Dear Mr. Furman:

Pursuant to Section 13 of the Act of December 22, 1951, P. L. 1726, the Wyoming Valley Hospital submits the following report:

1. The Wyoming Valley Hospital maintains and operates an approved School of Nursing and receives State-aid for the training of student nurses under Act 131 A of the 1951 General Assembly.

2. The undersigned is closely acquainted and in frequent communication with the Director of the School of Nursing, who is known to be not a subversive person. Said director, being closely acquainted with all instructors and others employed in an official capacity with reference to the School of Nursing, has informed the undersigned that there are no subversive persons among them. The careful screening of character and reputation incident to appointment of instructors and others con-

nected with the School of Nursing, and the regular and close relationship imposed among these by the very nature of their duties, precludes any of them being subversive without knowledge thereof coming to the undersigned.

3. The undersigned therefore sets forth unequivocally that Wyoming Valley Hospital has no reason to believe that there is in its employ any instructor or other person in any official capacity with reference to its school of nursing who is a subversive person.

Copies of this report are being furnished to the Governor of the Commonwealth and to the Speaker of the House of Representatives.

Sincerely,
WYOMING VALLEY HOSPITAL,
Benjamin Badman, Jr.
Administrator.

BB/fee

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PROPERTY AND SUPPLIES
HEALTH SERVICE ANNUAL REPORT
AUGUST 1955 TO AUGUST 1956

Total number of treatments to State Employees ..	4230
Total number of treatments to State Senators	123
Total number of treatments to State Representatives	377
Total number of treatments to Non-State Patients	105
	4835

153—Patients referred to Private Physicians.
[illegible]idents reported to State Workmen's Insurance Fund.
5—Sick patients sent to Hospital in ambulance.

ESTHER D. FEISER, R.N.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PROPERTY AND SUPPLIES
HEALTH SERVICE ANNUAL REPORT
AUGUST 1955 TO AUGUST 1956

	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May.	June.	July	Total
Blood Pressure Checked ..	32	32	38	26	28	41	47	55	53	49	41	48	490
Burns	9	4	7	5	2	3	5	3	7	4	3	3	55
Cardiac Cases					4								4
Colds & Sorethroat	50	110	129	75	102	129	116	133	94	84	41	34	1097
Dermatitis	7	5	7	6	3	4	2	9	11	10	8	10	82
Dysmenorrhea	15	20	20	14	5	10	17	14	15	21	15	20	186
Epistaxis	2				2	3	4	3	2				16
(Foreign Body	5	5	7	6	5	7	2	3	13	8	5	4	70
Eyes (													
(Conjunctivitis) ...	14	31	12	9	13	15	17	29	5	7	18	12	182
Fractures			1	1		1						1	4
Gastro-Intestinal													
disturbance	53	49	33	39	43	57	57	55	57	41	39	51	574
Headaches	20	24	36	23	28	42	34	47	27	36	14	14	345
Herpes	6	4	9	11	3	13	6	6	5	6	3	6	78
Infections (Skin)	14	8	7	8	3	11	11	4	11	17	12	5	111
Injections & (Hay-fever ..	2	2							1	4	4	4	17
Inoculations (													
Physicians (Special Rx. .	27	23	22	14	19	18	26	20	28	28	18	27	270
ordered)													
Insect-bites	10	5									9	6	30
Nervousness	15	8	10	10	11	19	10	13	12	6	6	4	124
Pains (Rheumatic-Etc.) ..	10	20	11	7	9	14	8	18	8	10	21	11	147
Redressings	42	32	42	27	27	24	34	58	29	50	50	37	452
Splinters-removed		3	3	1	5	9	4	2	6	8	1	9	51
Sprains	7	15	7	13	7	17	12	9	16	9	7	8	127
Wounds—All Types	35	23	23	30	19	26	28	34	22	33	15	34	323
Monthly—Total	375	423	424	325	338	463	441	515	422	431	330	348	4835

DELAWARE RIVER PORT AUTHORITY
OF
PENNSYLVANIA AND NEW JERSEY
ADMINISTRATION BUILDING
BRIDGE PLAZA
CAMDEN 1, NEW JERSEY
JOHN M. McCULLOUGH
SECRETARY

March 6, 1957.

The Honorable Charles L. Lathero
Senate Librarian
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania.

Dear Mr. Lathero:

The Delaware River Port Authority respectfully presents its report for the year 1956 to you as Senate Librarian.

Under separate cover ten copies of this report has been mailed in your care.

Sincerely yours,
John M. McCullough
Secretary

JMM-McS
Enc.

REPORT OF THE
DELAWARE RIVER PORT AUTHORITY
TO THE
GOVERNORS AND LEGISLATURES OF THE

COMMONWEALTH OF PENNSYLVANIA
AND THE
STATE OF NEW JERSEY
1956

PENNSYLVANIA

Weldon B. Heyburn, Chairman
Edwin R. Cox
Charles R. Barber
James V. Baney
Edward G. Budd, Jr.
Samuel B. Regalbuto
Ted Schlanger
Frank M. Steinberg

EXECUTIVE DIRECTOR
Joseph K. Costello

PENNSYLVANIA COUNSEL
Duane, Morris and Heckscher

CHIEF ENGINEER
Daniel M. Kramer

PORT DEVELOPMENT DEPARTMENT DIRECTOR
J. Alex Crothers

NEW JERSEY

J. William Markeim, Vice-Chairman
Arthur C. King
Edward C. McAuliffe
Erwin S. Cunard
James P. Johnson
Ralph Cornell
Earl B. Howe
(Vacancy)

SECRETARY
John M. McCullough

NEW JERSEY COUNSEL
Bruce A. Wallace

TREASURER
Horace J. Stradley

BRIDGE SUPERINTENDENT
Frank L. Suplee, Jr.

PUBLIC RELATIONS DIRECTOR
William A. Gaffney

ADMINISTRATION BUILDING
Benjamin Franklin Bridge Plaza
P.O. Box 69, Camden 1, N. J.

CONTENTS

	Page
Walt Whitman Bridge Towers Near Completion	Frontispiece
Classification of Vehicles	4
Five-Year Resume of Operations	4
Rail Transit Lines	6
Annual Report	7
Closing Gap	10
First Offical Crossing	12
Delaware River Port Tonnage Chart	14
General Cargo Handling	16
Lower Philadelphia Harbor	18
Dedication Plaque	20
Proposed Medernization	22
Walt Whitman Bridge	26-27
Distribution of Vehicular Traffic	31
Traffic Trends	32
Analysis of Traffic	33
Auditor's Certificate	35
Balance Sheet	36-37
Bank Deposits	38
Investments	39
Walt Whitman Bridge Costs	40
Walt Whitman Bridge Approaches Costs	41-42
Benjamin Franklin Bridge Costs	43
Funded Debt	44-45
Revenues & Expenses	46
Financial History	47
Summaries of Operations of Special Funds	48-49
Benjamin Franklin Bridge & Rail Transit Line Data	50

CLASSIFICATION OF VEHICLES
CROSSING BENJAMIN FRANKLIN BRIDGE IN 1956

Period	Total Vehicles	AUTOMOBILES AND LIGHT TRUCKS						BUSES 50c		TRUCKS, TRACTORS AND TRAILERS				Special Permits up to 150,000 Pounds	Motor-cycles 15c	Auto-Trailers 40c	Horse-drawn 30c
		Total Autos & Light Trucks		25c Rate		Commuters Rate—18¾c				Trucks 7,001 to 40,000 Pounds 50c to $2.50		Tractor & Trailers 2- to 5-Axles $1.00 to $2.00					
		Vehicles	% of Total	Vehicles	% of Autos	Vehicles	% of Autos	Vehicles	% of Total	Vehicles	% of Total	Vehicles	% of Total				
January	2,313,258	2,103,430	90.92	1,881,705	89.46	221,725	10.54	77,625	3.36	87,138	3.77	43,408	1.88	12	613	1,030	2
February	2,329,281	2,123,467	91.18	1,898,226	89.39	225,241	10.61	74,832	3.21	86,748	3.72	42,151	1.81	16	830	1,237	0
March	2,420,007	2,200,058	90.92	1,966,910	89.40	233,148	10.60	80,168	3.31	92,241	3.81	45,114	1.86	20	896	1,510	0
April	2,585,512	2,365,609	91.53	2,134,279	90.22	231,330	9.78	77,720	3.01	93,091	3.60	45,452	1.76	29	1,675	1,936	0
May	2,904,770	2,659,268	91.66	2,417,442	90.91	241,826	9.09	88,236	3.04	103,865	3.58	48,640	1.56	26	1,845	2,888	2
June	2,828,249	2,584,654	91.40	2,369,235	91.66	215,419	8.34	85,107	3.00	104,673	3.70	47,807	1.69	24	2,065	3,919	0
July	3,016,284	2,764,514	91.66	2,578,750	93.28	185,764	6.72	94,139	3.12	106,526	3.53	45,546	1.51	22	2,406	3,131	0
August	3,073,940	2,806,697	91.30	2,602,465	92.72	204,232	7.28	96,257	3.13	114,615	3.73	50,891	1.66	22	2,531	2,927	0
September	2,749,462	2,516,165	91.59	2,314,048	91.97	202,117	8.03	84,364	3.07	97,309	3.54	46,619	1.62	14	1,893	3,098	0
October	2,826,297	2,577,252	91.19	2,327,512	90.31	249,740	9.69	86,964	3.08	107,261	3.79	51,314	1.82	25	1,334	2,147	0
November	2,581,568	2,356,004	91.26	2,125,569	90.22	230,435	9.78	79,341	3.07	96,607	3.74	47,160	1.83	31	792	1,633	0
December	2,570,338	2,355,359	91.56	2,145,693	91.09	209,666	8.91	80,511	3.13	88,827	3.54	43,754	1.70	18	613	1,256	0
Totals	32,198,966	29,412,477	91.36	26,761,834	91.00	2,650,643	9.00	1,005,264	3.12	1,178,901	3.66	557,856	1.73	259	17,493	26,712	4
Grand Totals From July 1, 1926 to Dec. 31, 1956	501,234,866	443,716,194	88.17	*409,225,658	92.22	†34,490,536	7.78	32,353,816	6.45	18,424,423	3.68	5,000,423	1.00	863,357	756,822	114,817	5,014

*INCLUDES— 95,675,146 at 25c from July 1, 1926, to Jan. 31, 1937.
*INCLUDES—221,581,452 at 20c from Feb. 1, 1937, to June 19, 1953.
*INCLUDES— 65,207,226 at 25c from June 20, 1953, to Dec. 31, 1955.
†INCLUDES— 24,935,700 at 15c from Mar. 1, 1937, to June 19, 1953.
†INCLUDES— 6,904,193 at 18¾c from June 20, 1953, to Dec. 31, 1955.

FIVE-YEAR RESUME OF OPERATION

Year	TOTALS		AUTOMOBILES AND LIGHT TRUCKS			Buses	TRUCKS			Motor-cycles	Horse Drawn	AVERAGES				Sunday and Holiday Traffic	HIGH SPEED LINE (opened 6/6/36)			Net Receipts (Operation)
	Vehicles	Receipts	Total	Straight Fare	Commu-tation		7001 lbs. to 40,000 lbs. Gr. Wt.	Tractor-Trailers & Auto-Trailers	Specials up to 150,000 lbs.			VEHICLES		RECEIPTS			Total Fares 2½c	AVERAGE		
												Month	Daily	Month	Daily			Month	Daily	
1952	27,920,086	$6,963,650.03	25,052,817	22,708,265	2,344,552	1,046,457	1,232,200	561,847	318	26,353	94	2,326,674	76,284	$580,304.17	$19,026.36	80,343	8,884,757	740,396	24,275	$5,529,900.41
1953	29,569,044	8,125,472.46	26,624,282	23,927,534	2,696,748	1,052,967	1,242,454	624,485	266	24,562	28	2,464,087	81,011	677,122.70	22,261.57	84,995	8,381,739	698,478	22,964	6,415,084.81
1954	30,915,030	9,135,615.49	28,016,906	25,302,992	2,713,914	1,024,363	1,210,714	638,172	232	24,361	282	2,576,253	84,699	761,301.29	25,029.09	90,051	7,796,622	649,719	21 361	7,323,646.80
1955	32,058,006	9,375,638.26	29,164,495	26,421,358	2,743,137	1,015,664	1,228,109	628,344	289	20,956	149	2,671,500	87,830	781,303.18	25,686.68	91,472	6,924,454	577,037	18,971	7,682,715.81
1956	32,198,966	9,405,978.84	29,412,477	26,761,834	2,650,643	1,005,264	1,178,901	584,568	259	17,493	4	2,683,247	87,975	783,831.57	25,699.40	88,689	6,482,231	540,186	17,711	7,619,817.38

RAIL TRANSIT LINE

Month	1952			1953			1954			1955			1956		
	Passengers		Receipts	Passengers		Receipts	Passengers		Receipts	Passengers		Receipts	Passengers		Receipts
	Total	Daily Average		Total	Daily Average		Total	Daily Average		Total	Daily Average		Total	Daily Average	
January	694,945	22,417	$17,373.63	††587,000	18,935	$14,675.00	695,797	22,445	$17,391.93	609,629	19,665	$15,240.73	560,945	18,095	$14,023.63
February	642,903	22,169	16,072.58	**621,442	22,194	15,536.05	607,965	21,713	15,199.13	561,008	20,053	14,025.20	526,342	18,150	13,158.55
March	†681,011	21,968	17,025.28	723,354	23,334	18,083.85	688,030	22,195	17,200.65	631,636	20,360	15,790.90	571,218	18,426	14,280.45
April	742,952	24,765	18,573.80	704,894	23,496	17,622.35	658,218	21,941	16,456.20	577,618	19,254	14,440.45	526,326	17,544	13,158.15
May	719,214	23,200	17,980.35	697,719	22,507	17,442.98	622,582	20,083	15,564.55	576,214	18,588	14,405.35	555,384	17,916	13,884.60
June	725,140	24,171	18,128.50	693,274	23,109	17,331.85	625,788	20,860	15,644.70	574,782	19,159	14,369.55	529,196	17,640	13,229.90
July	701,742	22,637	17,543.55	673,300	21,719	16,832.50	582,814	18,800	14,570.35	485,228	15,652	12,130.70	478,223	15,427	11,955.58
August	737,721	23,797	18,443.03	719,196	23,200	17,979.90	646,770	20,864	16,169.25	568,652	18,344	14,216.30	536,951	17,321	13,423.78
September	785,274	26,176	19,631.85	721,947	24,065	18,048.68	636,523	21,217	15,913.08	552,512	18,417	13,812.80	526,606	17,553	13,165.15
October	828,997	26,742	20,724.93	725,172	23,393	18,129.30	639,302	20,623	15,982.55	575,618	18,568	14,390.45	573,199	18,490	14,329.98
November	745,980	24,866	18,649.50	706,653	23,555	17,666.33	660,391	22,013	16,509.35	579,421	19,311	14,485.60	545,731	18,191	13,643.28
December	878,878	28,351	21,971.95	807,788	26,057	20,194.70	732,409	23,626	18,310.23	632,133	20,391	15,803.33	552,110	17,810	13,802.75
Totals	8,884,757	24,275	$222,118.95	8,381,739	22,964	$209,543.49	7,796,622	21,361	$194,915.47	6,924,454	18,971	$173,111.36	6,482,231	17,711	$162,055.80

(†Camden Ferries Closed March 31st, 1952)
(††Four Day Transit Line Strike 1953)
(**Locust St. Tube Extension to 16th St. Opened Sunday, February 15, 1953)
Receipts are here reported on the accrual basis whereas on Schedule B, Rail transit line rentals are on the cash basis.

ANNUAL REPORT
OF THE
DELAWARE RIVER PORT AUTHORITY
OF PENNSYLVANIA AND NEW JERSEY

To the Honorable: The Governors and the Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey.

The Delaware River Port Authority takes deep satisfaction in reporting to you that, as of the end of the calendar year 1956, the monumental Walt Whitman Bridge over the Delaware River connecting Pennsylvania and New Jersey is in the final stage of completion.

It is the eighth largest suspension bridge in the world, and, with its five and three-fourths miles of approach roads, is one of the longest bridge systems in the world.

As the year closed, it was not prudent to attempt to fix the exact date upon which the seven-lane, $90,000,000 structure could be opened to traffic. Although the weather during the fall and early winter was highly favorable to proescution of the remaining contracts, neither we nor our engineers could forecast what work-retarding conditions might ensue. We expect, however, to announce a firm date for the opening within the next sixty days.

Traffic movement over the great structure will have, in our judgment, far more than the usual ceremonial significance. It is not "just another bridge," nor is it notable solely because of the dimensions of its span and the complexity of its approach roads system.

Its true significance resides in the fact that, with its elder and more massive kinsman, the Benjamin Franklin Bridge three and one-third miles upstream, it will become a major vehicle in the swift transfer of people, goods and services between the two states to the comfort, convenience and economic benefit of the entire Port Area.

In combination with other highway improvements now either under construction or in the planning stage in both states, it should aid materially in the relief of traffic congestion in the Philadelphia-Camden urban area. By detouring a highly-congested area of Camden county to the north and by slashing across an equally congested section of South Philadelphia, the Walt Whitman Bridge complex will provide, in effect, a limited access highway connecting directly with the Port of Philadelphia. The man-hours of time and dollars of operating cost that shippers may save as a consequence is hardly calculable.

This saving becomes particularly significant in the light of the march of industrial development in the tide-water section of Southern New Jersey and Delaware County, Pennsylvania.

Thousands of vistors to the shore resorts of South Jersey will find the new bridge a comfortable and convenient means of access to their summer homes and their favored beaches, on the one hand; on the other, the major airlines already are keenly aware of the new accessibility of Philadelphia's International Airport to South Jersey patrons.

The significance of the structure as an adjunct of the national defense, providing a link for the swift transportation of men and materials between critical military and naval installations in the tri-state area has been commented upon frequently.

We have been gratified, in recent months, to learn of a mounting realization of the impact this monumental new river crossing will have upon residential and industrial developments of areas on both sides of the river which heretofore have suffered due to their relative remoteness from the main stream of interstate commerce and travel.

In short, we have the confidence that completion of the Walt Whitman Bridge and its approach system will be, in the most inclusive sense, the type of "authorized purpose" contemplated for this Authority by the Interstate Compact of 1951, which stated:

"The effectuation of its authorized purposes by the Commission (Authority) is and will be in all respects for the benefit of the people of the Commonwealth of Pennsylvania and the State of New Jersey, for the increase of their commerce and prosperity and for the improvement of their health and living conditions. . ."

This emphasis in our report to you upon the activities of the past year does not, however, imply that completion of the Walt Whitman Bridge commanded the energies of the Port Authority to the exclusion of other concerns. While it is true that prosecution of the concluding phases of construction absorbed the bulk of our funds and of the energies of our staff, the Authority was not unmindful of its other obligations and opportunities to fulfill the spirit as well as the letter of its legislative charter.

In our report to you one year ago, we emphasized that the Authority's activities, both as to projects in hand and those proposed, were influenced by two important if not unique facts of our Southeastern Pennsylvania-Southern New Jersey area: first, problems arising out of vast metropolitan growth, both industrial and residential, and second, the predominating influence of the Delaware River Port upon our economy.

The pressures of these two facts of the area's life continued and accelerated during the year just closed. Within the limits of our statutory powers and resources, the Port Authority sought to cope with them.

Detailed report upon these activities is embodied in succeeding pages of this report and in the attached appendices. In brief preface, they included the following:

1. Submission to your honorable bodies of a report upon a proposed Mass Transportation System for Southern New Jersey, connecting with Central Philadelphia, in accordance with Article I, Section (j) of the Interstate Compact.
2. A continued high-level of activity in the protection and promotion of the Delaware River Port.
3. Presentation to the Legislature of the State of New Jersey of proposed legislation which would authorize and consent to construction by the Delaware River Port Authority of a new high-level vehicular bridge connecting Northeast Philadelphia and New Jersey. Companion legislation to this end was unanimously adopted in 1955 by the Legislature of the Commonwealth of Pennsylvania and signed by Governor George M. Leader in December, 1955.
4. A formal offer to the State of New Jersey to enter into an agreement for modernization of the Camden approaches of the Benjamin Franklin Bridge, this

Authority to provide ten percent of the funds, the balance to be provided by the Federal Government under the Federal Highway program.

5. A report to the Legislature of the Commonwealth of Pennsylvania, responsive to a concurrent resolution of that body, offering to undertake an engineering and traffic survey of a new crossing of the Delaware River between Delaware County, Pennsylvania and New Jersey as speedily as the traffic pattern of the Walt Whitman Bridge is firmly established.

YEARLY TRAFFIC BREAKDOWN

	1956	1955	Increase Decrease*	Per Cent
Automobiles and light trucks	26,761,834	26,421,358	340,476	1.29
Commutation tickets	2,650,643	2,743,137	92,494*	3.37*
Motor trucks	1,178,901	1,228,100	49,199*	4.00*
Tractors and trailers	557,856	598,396	40,540*	0.76*
Special permits	259	289	30*	10.38*
Buses	1,005,264	1,015,664	10,400*	1.02*
Motorcycles	17,493	20,956	3,463*	16.53*
Horse-drawn vehicles	4	149	145*	97.31*
Auto and trailer	26,712	29,957	3,245*	10.83*
Totals	32,198,966	32,058,006	140,960	0.44

THE WALT WHITMAN BRIDGE

Out of a total of 43 major contracts for the construction of the Walt Whitman Bridge, its approaches and appurtenant structures, only one remained to be advertised and awarded on December 31, 1956.

The only remaining contract is for a fender system for the tower piers. It will be invited in the very near future.

Three and one-half years after award of the first major construction contract on June 24, 1953, the Authority has obligated itself for a total of $83,673,735.62, underwritten in its entirety by the revenues of the Benjamin Franklin Bridge and anticipated revenues from the Walt Whitman Bridge.

Contract commitments built up in the following amounts during the period of major construction activity:

1953	$29,188,735.12
1954	$30,410,747.79
1955	$12,307,244.74
1956	$11,767,007.97

Due to circumstances beyond our control, the entire stretch of the Philadelphia approach system will not be accessible to motorists when the bridge is open to traffic. Initially, the approach system will be open only as far west as Broad Street. Although all of the steel required for the completion of the entire project was on order, the nation-wide steel strike of July 1-27, 1956 resulted in serious delay in delivery of some of the shapes, particularly for the complicated viaduct and interchange structures in the vicinity of Vare and Passyunk Avenues. Delivery of this steel began some weeks ago and affected contractors are prosecuting these remaining gaps in the work as expeditiously as weather conditions and their facilities will allow.

The affected portion of the Philadelphia approaches is that, slightly over one and one-half miles in length, extending westward from Broad Street to approximately 28th Street and Vare Avenue. We pledge you that no circumstance over which this Authority has jurisdiction or control will unduly delay its completion.

The highly complex New Jersey approach roads system, interconnecting with Broadway, Gloucester, the North-South Freeway, Route 130 (Crescent Boulevard) and the Black Horse Pike, will be ready for traffic in its entirety when the bridge opens.

The Authority desires to express its sincere appreciation to the Secretary of Highways of the Commonwealth of Pennsylvania, to the Commissioner of Highways of the State of New Jersey, and the personnel of their respective departments, for the unfailing cooperation and assistance accorded us in meeting and overcoming a multitude of difficult problems.

Section 4 of Article XII-A of the Interstate Compact provides as follows:

"Notwithstanding any of the provisions of this article, the Commission (Authority) shall not, in connection with the bridge or tunnel referred to in this article (Walt Whitman), construct any approach or highway connection in the Commonwealth of Pennsylvania unless and until the Department of Highways of said Commonwealth shall have filed with the Commission its written consent to such construction and the Commission shall not, in connection with said bridge or tunnel, construct any approach or highway connection in the State of New Jersey unless and until the State Highway Department of said State shall have filed with the Commission its written consent to such construction."

In actual practice, the rather stern language of the Compact has been reflected in an intimate and mutually cordial cooperation of which this Authority is deeply appreciative.

Making due allowance for varying conditions of site and design, it is probable that the Walt Whitman Bridge will have been opened to traffic more expeditiously than any other comparable structure in this hemisphere, if not in the world. The unfailing cooperation and courtesy which we have received from the highway departments of the two states have been important contributions to the achievement.

The major construction highlights of the past year may be recounted speedily:

The spinning of the main cables, each 23⅛ inches in diameter and composed of 37 strands of 308 steel wires each, was completed on February 22, 1956.

The bottom chord of the main suspension span was closed at 10:20 A. M., June 20, less than nine and one-half months from the date in the early fall of 1955 when the first steel cable to suspend the working "catwalk" was hoisted between the two towers.

Direct highway connection between Fairview, Camden, and Gloucester City was reestablished on July 18, 1956, with the opening of relocated Collings road, a fine, modern boulevard.

On November 21, members of the Authority and its engineers and staff comfortably traversed the bridge-approach system from Broad Street in Philadelphia over the span to the Black Horse Pike in New Jersey by bus, the major portion of the route over asphaltic concrete in place and ready for traffic.

This chronology of events allows some interesting if not necessarily significant comparisons with corresponding periods in the construction of the Benjamin Franklin Bridge, which was opened to traffic on July 1, 1926.

The time lapse from the letting of the first contract to the closing of the main span of the Benjamin Franklin Bridge was approximately three years, four and one-half months; for the Walt Whitman Bridge, a few days less than three years.

The period from the award of the first contract for the Benjamin Franklin Bridge to the first anchorage-to-anchorage inspection by members of the Delaware River Bridge Joint Commission was, by coincidence, exactly one year to the day and almost to the hour longer than the same period in the construction of the Walt Whitman Bridge. The former was four years, four months and 29 days; the latter, three years, four months, and 29 days.

The Walt Whitman Bridge will not achieve its full usefulness until completion of the approximately three and one-half miles of the Schuylkill Expressway from 30th Street to link-up with our end of construction in the vicinity of 28th Street and Vare Avenue. Even with completion and opening to traffic of the Philadelphia approaches to the Walt Whitman Bridge, traffic desiring to enter it at its Vare Avenue terminus must utilize the existing network of city streets. In traffic analyses which necessarily preceded design of the approach system, our engineers, estimated that approximately 15,000 cars a day will utilize the Vare Avenue terminus in both directions. Financing the Schuylkill Expressway under the "90-10" formula of the Federal Highway Program now appears to be assured. We have every confidence that the Pennsylvania Department of Highways and the Department of Streets of the City of Philadelphia will progress this needed improvement as speedily as financing arrangements will allow.

A modest foretaste of the benefits which may be anticipated from the fully completed approach system in Philadelphia was given last December when, for the first time since inauguration of the great inter-service classic, traffic flowed smoothly and speedily across Packer Avenue to the Army-Navy game at Philadelphia's Municipal Stadium. Before the broad, paved underpasses of the Bridge approach highway were constructed at 7th, 10th and Broad Streets, traffic entered South Philadelphia south of Packer Avenue over narrow, wooden bridges spanning the former railroad cut. Millions of cubic yards of sand and gravel were pumped from the bed of the Delaware River through pipe-lines to fill a portion of the depression and to create huge stockpiles for filling and elevating the balance. The underpasses, fully open to traffic before the Army-Navy game, now speed its movement to the Philadelphia Naval Base, the U. S. Naval Hospital and the industries and residences of the tip of Philadelphia's peninsula.

THE PORT DEVELOPMENT DEPARTMENT AND PORT ACTIVITIES

The story of the Port Development Department's activity during the past year might be indexed under just three words: protection, solicitation, and promotion.

The story is written against a background of new tonnage records for the Delaware River Port, despite greatly intensified competition from neighboring ports—a competition which may be expected to increase steadily.

Complete, official tonnage figures for the year 1956 are not yet available. However, tentative figures indicate that the total for the Delaware River Port exceeded 90,000,000 tons last year, a gain over 1955 of at least 5.9 percent.

During 1956, the Delaware River Port once again held the position of "No. 1 Import Port of the United States," handling in excess of 38,000,000 tons.

Applying the formula developed four years ago by the Department's Statistical and Research Section, last year's total tonnage laid down a minimum of $690,000,000 in direct cash income for the Port Area. In terms of purchasing power, the sum approximates $1,750,000,000. Some indication of the impact of such "new money" upon the economy of the area may be derived from the fact that the purchasing power of the port tonnage income last year was more than 36 percent greater than the total of all salaries and wages paid by Philadelphia industry in 1955.

Another measure of the spectacular growth of the commerce of the Delaware River Port is a study of the fast full decade since the close of World War II. During that period, the tonnage of the Delaware River Port has nearly doubled from 51,000,000 tons in 1946 to more than 90,000,000 today. No other port in the United States has made so spectacular a gain in waterborne commerce.

Even more spectacular has been the ten-year increase in foreign commerce, from 16,900,000 tons in 1946 to more than 43,000,000 tons in 1956.

Such statistics, whether represented in tonnages or as dollars income, particularly when they outstrip the growth rates of competing ports, fully justify the oft-repeated statement that "the Delaware River Port is this area's most important business.

The Authority has moved to protect and promote it at every prudent opportunity within the bounds of its legal powers. In accordance with the powers granted in Article I, Section i of the Interstate Compact, we have intervened in three major cases upon which a report seems warranted.

The Interstate Commerce Commission on October 23 announced its decision in the socalled "Iron Ore Rate Case" (I. & S. Docket 6074), upon which we have advised

you on two occasions. The case was re-opened on the petitions of the Baltimore, New York and Boston railroads and port interests. The Commission again approved import iron ore rates from Philadelphia to the Pittsburgh, Wheeling, Youngstown area on the same basis as from Baltimore. The Port of New York was placed on a parity with Philadelphia and Baltimore to the Youngstown, Ohio area. The Commission, however, denied an equalization of iron ore rates from Boston to the Youngstown area. This decision to allow New York to publish equal rates to Youngstown came as a great disappointment to Philadelphia port interests. All ten I.C.C. Commissioners voted to approve the present Philadelphia rates, which are same as from Baltimore. Only six commissioners voted to permit New York to equalize with Baltimore, and only one voted to approve equalization from Boston. The decision reaffirms in part the position of the Port Authority in this proceeding, although we strongly opposed equalization of rates from both New York and Boston.

Dissatisfaction with both the 1954 and the 1956 decisions of the Commission in this case has resulted in (1) a suit in Baltimore Federal Court by that city's rail and port interests seeking reversal of the I.C.C. order and re-establishment of the formerly existing lower Baltimore rate, and (2) a suit in Boston Federal Court by that city's rail and port interests, seeking reversal of the I.C.C. decision and equalization of railroad rates on import iron ore with Baltimore. The Authority has continuously participated in these proceedings and will continue to do so until all pending litigation reaches final judgment.

The importance of this case to the port can be fully appreciated by the fact that iron ore imports in the Delaware River Port have increased from approximately 1,000,000 tons in 1953 to over 10,000,000 tons in 1956, bringing with it about $25,000,000 in direct income to the Philadelphia Port Area annually.

The Port Authority on June 27th filed a protest and petition with the Interstate Commerce Commission (I. & S. Docket 6615) requesting the suspension and investigation of reduced rail rates on export and import freight published by the New York and Boston railroads to and from Central Freight Association territory, to become effective July 10, 1956. Ihe Interstate Commerce Commission has suspended the reduced rates to and from all of the North Atlantic Ports and has set dates for hearings in this case commencing early in 1957. This rate adjustment represents an attempt by certain railroads serving the Port of New York and ports north thereof to obtain a parity of rail rates to and from western Pennsylvania and other mid-western points with Philadelphia, which is generally 2c per 100 pounds lower than New York, and Baltimore, which is 3c per 100 pounds under New York. The present port differential rates have been in effect for 75 years. The Port Authority in close cooperation with the Philadelphia railroads, the City of Philadelphia, and the Chamber of Commerce of Greater Philadelphia is actively engaged in collecting statistics and information for exhibits and testimony in this case in order to protect the best interests of the Port. The Authority has employed special counsel, cost experts and statisticians to assist in the preparation of a strong case, realizing the importance of this matter to the future development of the Port Area.

Since 1938, the Port of Philadelphia had been handicapped by an extra or "arbitrary" charge assessed by motor carriers on freight delivered to piers in the Port Area from adjacent states over and above that charged for domestic deliveries.

When the motor carriers attempted to revise their entire rate structure, in this proceeding before the Interstate Commerce Commission, the Port Authority intervened. It protested that these extra charges—"pier arbitraries" were discriminatory and should be removed.

In August, 1956, the Interstate Commerce Commission sustained the Port Authority's position and ordered the charges removed, thus placing Philadelphia on a parity with Baltimore as to this class of freight movement for the first time in eighteen years.

We have endeavored to keep the Attorneys General of Pennsylvania and New Jersey continuously advised as to each significant development in these rate cases, in addition to formal notification of intervention required by the Compact.

Vigorous protective action of the type described is fully justified, in our opinion, by the obligations to which the legislatures of our two states have mandated us. If further incentive were required, it exists in the program of Delaware River maintenance and improvement for the fiscal year 1957 announced by the U. S. District Engineer, Colonel Allen F. Clark, Jr., and in continuing industrial and riverside development.

Almost six years of unremitting agitation by this Authority, in close cooperation with members of the Congress, State and local officials, maritime, business and civic interests of the Port Area, bore its first fruit on November 23, 1956, when a dredge began pumping mud, sand and gravel from a section of the river just above the Delair Bridge of the Pennsylvania Railroad. On that day, the long-held dream of deepening the channel of the river from Philadelphia Naval Base to Trenton at head of tidewater became a reality.

The announcement of the District Engineer stated that $6,000,000 will be spent during the current fiscal year on the project; $3,250,000 for restoration to 40-foot depth of the channel from Philadelphia to the sea; $1,060,000 for the widening and deepening of the ship anchorages at Marcus Hook and Mantua Creek, and $500,000 for a comprehensive, multi-purpose survey of the Delaware River Basin.

We will continue to exert every proper effort to the end that the District Engineer is regularly supplied with adequate funds to prosecute the channel-deepening project to completion.

Although the river basin survey, just now entering the phase of active planning, embraces problems and facilities lying far beyond the scope of this Authority, the future of the Delaware River, its ports, and its supporting residential, agricultural and industrial hinterland are intimately affected. We are eager to lend our full support to its successful completion.

It has been a prime contention of our support of the channel deepening project from the outset that the vigor of industrial and commercial growth not only justifies the expenditure exclusively from Federal funds, but in fact demands it. The year 1956 supplied additional evidence in support of this view.

In 1956 the National Gypsum Company commenced operation of its new plant near Burlington, New Jersey.

This plant, when in full operation, will use 350,000 tons of gypsum rock annually from Nova Scotia. This material is being transported in specially built cargo carriers which now can only navigate the present channel with a partial load. The Phoenix Iron & Steel Company recently announced the purchase of approximately 900 acres of land on the river between Florence and Burlington, New Jersey. This company plans to build an integrated steel plant at this location, and, according to our information, will import annually approximately 1,500,000 tons of iron ore and other raw materials in deep draft vessels. A modern general cargo terminal which will be one of the finest on the Atlantic Coast is now under construction in Northeast Philadelphia a short distance above the Tacony-Palmyra Bridge. This marine terminal, which has a marginal wharf of 2400 lineal feet and a cargo shed 900 feet long by 200 feet wide, is being built by Northern Metal Company as an addition to its present facilities. This terminal, which will have adequate facilities for the handling of cargoes by rail and motor carriers, is deserving of note in that it is one of a very few general cargo marine terminals in the United States privately owned and operated.

The pressure of greatly intensified competition has been felt both in the field of offices of our Port Solicitation Bureau in New York, Pittsburgh and Chicago, and in our coordinating headquarters in Camden, New Jersey. A growing awareness on the part of the business leadership of the nation's port cities, possibly dramatized by construction progress reports from the St. Lawrence Seaway, of the tremendous community stake in port business has asserted itself nationally. Two cities with deep-rooted maritime traditions—Boston and Baltimore —established port authorities in 1956. The drive for waterborne commerce, which is a major factor in attracting industry dependent upon import raw materials to tidewater, is in full and unmistakable cry.

Our port representatives have recognized the trend, and have intensified their efforts to maintain close contact with principal shippers, as well as railroad and steamship representatives in their areas. In this regard, we take pleasure and pride in the full cooperation and assistance in the solicitation effort given us by the transportation agencies—water, rail and highway—serving the Port Area, and the various business, civic and maritime organizations and agencies. As at no other time in its history, the Delaware River Port is presenting a solid front to the challenge of vigorous competition.

A reflection of the new national and iternational awareness of the significance of healthful port activity was convincingly demonstrated September 18-21 in this area, when the 45th Annual Convention of the American Association of Port Authorities met in Philadelphia. A record of 485 persons, including delegates representing port authorities of Latin America, Canada, the United States and Hawaii and Puerto Rico were in attendance. Cooperating hosts were the Delaware River Port Authority, South Jersey Port Commission, Department of Commerce of the City of Philadelphia, the Port of Philadelphia Maritime Society and the Board of Harbor Commissioners of Wilmington, Delaware.

The year 1956 was one of the most active years in port promotion since establishment of the Port Development in 1949.

Throughout the year, it is conservatively estimated that upward of 500,000 persons, including tens of thousands of elementary, junior and senior high school and college students in the Port District, saw one or more of the Authority's three sound motion pictures—"Delaware River—Port of Opportunity," "Highway to the World," and "Short Cut to World Markets." Included in the total were 1,300 showings to over 107,000 persons in the United States outside of the port area. Approximately 750 showings were made to some 74,000 students and teachers of the Philadelphia School district, which has instituted a special program of instruction on the Port, utilizing the Authority's films, discussion periods and bus and boat tours of the Port teaching media. Numerous other film showings were made to school groups in 23 counties of Eastern Pennsylvania, the eight counties of Southern New Jersey and two counties in Delaware.

Distribution of the films is made through the Philadelphia School District, Commercial Museum of Philadelphia, Camden Film Library and other media, as well as by our staff.

Showing of the film, including Spanish, French and Italian language versions, are being made throughout the world. They are utilized by the U. S. Information Agency and the U. S. Information Service abroad, and at the present time, five Spanish language prints are on tour throughout Latin America.

A new "first" in promotion of the Delaware River Port was achieved in July, when the Authority published a 72-page "Delaware River Port" handbook. The handbook describes the facilities and services of the Port and contains a directory of steamship companies and other agencies serving it. As of December 31, 1956, more than 8,000 copies of this invaluable source book of facts had been distributed throughout the world.

THE BENJAMIN FRANKLIN BRIDGE

Sometime between 1 and 2 o'clock on the morning of Monday, December 17, 1956, the half-billionth vehicle to cross the Benjamin Franklin Bridge passed through its toll lane.

By December 31, 1956, the total had risen to 501,234,866.

It is estimated that if all of the motor vehicles which traversed the great span since opening on July 1, 1926, were to be grouped into a single mass—bumber to bumper, hub cap to hub cap—they would comprise a blanket almost two miles wide extending from the Delaware River to the shore of San Francisco Bay.

Although the rate of increase in traffic during the past year was only about one-eighth that of preceding years, and only about one-twelfth the average for the preceding five year period, it was still an all-time record of 32,198,966, an increase of .44 percent over the 32,058,006 vehicles recorded in 1955.

Retardation of the normal rate of increase in bridge traffic undoubtedly may be attributed to the fact that, on September 14, 1955, the basic toll rate on both the Talcony-Palmyra and the Burlington-Bristol Bridges over the Delaware, operated by the Burlington County Bridge Commission, was reduced to five cents. Traffic in six of the nine months of the past year over the Benjamin Franklin Bridge fell below that of the comparable months in 1955. Beginning with last October and continuing through December, the figures were slightly in advance

of the same months of 1955, the increase averaging about .18 percent.

The familiar report upon our traffic which we have submitted to you annually since the report for the calendar year 1926 will be reformed in 1957, with the opening of the Walt Whitman Bridge.

Four years ago, our traffic engineers estimated that total traffic on the Benjamin Franklin and the Walt Whitman Bridges during the first full year of the latter's opening to traffic will aggregate 36,968,000. This estimate is 14.8 percent greater than the actual 1956 traffic over the Benjamin Franklin Brdige alone, and 12.4 percent greater than the traffic engineers' estimate for the same year. At the time the estimates were made, the toll reduction on the two bridges operated by the Burlington County Bridge Commission did not enter into the calculations.

How much combined traffic over the Benjamin Franklin and Walt Whitman Bridges will be affected by factors which were unforeseen four years ago, including the gap in the Schuylkill Expressway to which we have referred, cannot be forecast with any certainty. Whatever the effect of those fortuitous circumstances may be, we are confident that the rate of increase will greatly exceed that of recent years.

On January 17, 1956, the great structure connecting Philadelphia and Camden known for years as the "Delaware River Bridge" was re-named the Benjamin Franklin Bridge in commemoration of the 250th anniversary of the birth of the great American scientist, patriot and statesman.

The dedicatory exercises were held in conjunction with world-wide celebration of the Franklin anniversary. J. William Markeim, Vice-chairman of the Port Authority, presided at the ceremonies at the tablet at the eastern end of the Camden Toll Plaza, facing 7th Street. The dedicatory tablet bearing Franklin's head in bas relief, bears this inscription:

THE COMMISSIONERS OF THE
DELAWARE RIVER PORT AUTHORITY
DEDICATE THIS BRIDGE TO THE
MEMORY OF A GREAT PATRIOT
SCIENTIST AND STATESMAN AND
IN HIS HONOR NAME IT THE
BENJAMIN FRANKLIN BRIDGE

Governor Robert B. Meyner, of New Jersey, spoke briefly and unveiled the tablet in the presence of a distinguished company of Federal, State and local representatives of government, representatives of the various societies and organizations which Franklin founded or with which he was affiliated, members of the consular corps and officers and members of the Poor Richard Club of Philadelphia.

Following the Camden ceremony, the motorcade proceeded to the Philadelphia Plaza. Weldon B. Heyburn, Chairman of the Port Authority and Treasurer of the Commonwealth of Pennsylvania, presided. The tablet, fixed on the south pylon of the Philadelphia Plaza structure, was unveiled by Major General A. J. Drexel Biddle, Adjutant General of Pennsylvania, representing Governor George M. Leader. Immediately following this ceremony, George M. Neil, President of the Poor Richard Club, unveiled a tablet to Franklin's memory fixed permanently in the Plaza structure in front of the north pylon.

Prior to the bridge dedication ceremony, Mr. Heyburn placed a wreath upon Franklin's grave in Old Christ Churchyard at 5th and Arch Streets in the name of the Delaware River Port Authority. Following it, members of the Authority and its predecessor commissions, the Delaware River Joint Commission and the Delaware River Bridge Joint Commission, were guests at the annual Franklin Day luncheon in Franklin Hall of the Benjamin Franklin Memorial and Franklin Institute Museum at 20th and the Parkway.

One of the most significant actions taken by the Authority in the recent history of the Benjamin Franklin Bridge came at the December meeting. A resolution was adopted advising Governor Meyner and New Jersey State Highway Commissioner Dwight R. G. Palmer of the Authority's readiness to enter into an agreement with the State of New Jersey, through its Highway Department, for modernization of the Camden approaches to the bridge. This improvement, the necessity for which was recognized when the bridge opened more than thirty years ago, has been the repeated subject of comment and recommendation by this Authority. Widened Vine Street in Philadelphia relieved traffic congestion on the Pennsylvania approaches, but the narrow funnels of Penn and Linden Streets in Camden resulted in serious congestion, not only of through bridge traffic, but upon abutting streets of the City of Camden.

Discussion which the Executive Director held with Governor Meyner and Commissioner Palmer earlier in the year indicated that the most opportune means of accomplishing the approach improvement would be through the Federal Highway program.

The effect of the resolution is this: The New Jersey Highway Department would apply for funds under the "90-10" formula (90 percent of the funds provided by the Federal Government, the balance of 10 percent by the State) for construction of a new highway connection from the Camden Plaza of the Bridge to an interchange with porposed New Jersey Route 60, a freeway approximately paralleling the Delaware River as an interstate link from Trenton to the Delaware Memorial Bridge. From 7th to the vicinity of 11th Streets, Camden, a new approach would be constructed, as either a depressed or elevated structure between Penn and Linden Streets. This structure would continue as a limited-access highway, generally northward of the present Admiral Wilson Boulevard, to the Route 60 connection.

The Port Authority's action expresses its readiness to reimburse the State of New Jersey for 10 percent of the total cost, the State's share of the project. No right-of-way or final design has been developed and the agreement would of course be subject to ratification in final form. The same procedure was followed with both the Pennsylvania and the New Jersey highway departments in construction of the approaches to the Walt Whitman Bridge with most satisfactory results, as noted elsewhere in this report.

The proposed improvement would free the streets of Camden City of the congestion due to through traffic; it would re-establish and permit further development of Admiral Wilson Boulevard as a high value commercial district, and would open up interesting possibilities in

freeing North Camden from the present obstacle of bridge traffic. Finally, it would make possible free movement of our traffic to a distribution point well beyond urban congestions.

A contract for painting the bridge was awarded by the Authority last spring and by the year's end, when weather forced suspension of the work until spring, all but a few remote items of the contract had been completed. Analysis of the painting contract costs over the past thirty years offers an arresting documentary on the multiplication of maintenance costs on so massive a structure. The 1956 contract price of $386,685, awarded to the low bidder after public receipt and opening of bids, is 1.5 times the cost in 1947, 3.8 times 1938, and almost five times the initial painting cost in 1926.

We again are gratified to be able to advise you that, due to a twenty-four hour a day patrol of the bridge by police vehicles, an exemplary safety record was established. There were three unfortunate fatalities, resulting in a rate of one death for each 19,319,379 vehicle miles. The national average of deaths per million vehicles is 6.4. The corresponding average for Benjamin Franklin Bridge last year was 5.2, or one-fifth below the over-all fatality rate for the United States. Police recorded a total of 620 accidents, all but a few of which were of negligible consequence, giving an accident rate of one for each 93,480 vehicle miles.

In accordance with long-standing policy of the Authority, full cooperation with Federal, State and local civil defense measures was continued throughout 1956. We now are fully prepared with the most modern warning systems not only to take appropriate emergency measures for the protection and dispersion of bridge patrons in the event of an emergency, but also to give prompt and timely warning to our own personnel.

The most recent of these devices—a "CONELRAD" radio receiver—was installed promptly in compliance with a directive of the Federal Communications Commission dated September 25, 1956.

"Conelrad," a contraction of the phrase "controlled electronic radiation," is a system for grouping standard radio broadcasting on fixed dial positions in such a way that enemy aircraft or guided missile ships at sea would be unable to utilize the broadcast beams as radio direction finders for locating critical targets. If enemy attack impends, all standard radio stations revert to emergency broadcasting on dial positions 640 and 1240. Our equipment automatically "homes" on this shift, thus alerting our switchboard and through it our own short-wave and telephone communications system. This new electronic aid supplements the more familiar "bell and light" equipment for alerting key facilities to the various civil defense emergency signals.

During the year, bridge personnel participated in three civil defense drills: New Jersey's "Operation Surprise" in February, a civil defense communications test without public participation; New Jersey's "Operation May Day" on May 1, a public patricipation test, during which the bridge was closed to all traffic for ten minutes; and the nationwide "Operation Alert" on July 20, when the bridge again was closed to all traffic for ten minutes.

Our bridge personnel have achieved a smooth and effortless routine in responding to civil defense alerts. With the backing of disciplined personnel and the aid of the electronic measures outlined, we believe that Benjamin Franklin Bridge is as well prepared as such a facility can be to face the dire consequences of a national emergency.

On December 31, 1956, the authorized strength of the Authority's personnel was 264, one fewer than for the same date in 1955. In the course of the year, there were one death, three resignations for retirement, 21 resignations, 2 service terminations, all of which vacancies were filled.

The total outstanding debt of the Authority at year's end was $103,156,000, made up of $100,000,000 First Series Revenue bonds and $3,156,000 Refunding Bridge bonds due June 1, 1966.

Gross receipts for 1956 were $9,390,148.39, an increase of $27,907.05 over 1955. Operating expenses totaled $1,770,331.01, or an increase of $90,805.48 over the preceding year. Income on investments and bank balances was $1,431,893.89, a reduction of $483,031.16, principally reflecting dwindling income during the year from invested construction funds as those funds were absorbed by Walt Whitman Bridge construction costs. Interest payments on the 1946 (1966) Refunding Bridge bonds and the 1953 First Series Revenue bonds totaled $3,455,493.83.

Port Development Department expenses of $239,803.91 left net revenue for the year before $400,200 non-opreating adjustments of $5,356,413.53. Port expenses in 1955 were $216,996.94 and net revenue for that year was $5,913,675.90, reflecting a decrease of $557,262.37.

The first maturity of $600,000 on the $100,000,000 First Series Revenue bond issue will become due on December 15, 1957. It will be followed on December 15, 1958, with a maturity of $900,000.

A significant feature of our fiscal management during the year just ended was the retirement of an impressive fraction of our Bridge Refunding bonds, issued in 1946 at an interest rate of 1 percent. Several years ago, the Authority fixed a policy of purchasing any offering of these bonds at a price of 90 plus accrued interest. Late last year, due to money market conditions, the policy of accepting all offerings of the bonds at 90 plus accrued interest was terminated as of December 31, 1956. At the final meeting of the year, the Authority directed public announcement that, for the period January 1-March 31, 1957, Bridge Refunding bonds would be repurchased at 85 plus accrued interest.

During 1956, $4,002,000 of the Refunding Bridge bonds were purchased and cancelled, a reduction of over 55 percent in one year in this issue.

SOUTHERN NEW JERSEY MASS TRANSPORTATION SURVEY

The Delaware River Port Authority on August 18, 1954, engaged the New York engineering firm of Parsons, Brinckerhoff, Hall and Macdonald to conduct a survey and to report upon the economic feasibility of an integrated mass transportation system for Southern New Jersey, with a connection to downtown Philadelphia.

This action, responsive to Article I, Paragraph (j) of the Inter-State Compact, was taken only after several months of meetings of the Authority's Transportation Committee in which it interviewed and consulted with the foremost engineering firms of the United States.

Provision was made for distribution of the final report

to the two Governors and the Legislatures and to other individuals and organizations having a primary interest, and it was then released to the press on March 22, 1956.

After four months of intensive study and analysis by the Authority and its staff, the report was approved on July 12, 1956, and the Transportation Committee directed to prepare a report to the Governors and the Legislatures, as required by law. This report, dated July 18, 1956, was reproduced in brochure form. Approximately 4,000 copies have been distributed not only within the Port District but to Federal, State and local government officials, planning boards and transportation agencies throughout the United States.

In May, meanwhile, the New Jersey Legislature appointed a Special Joint Commission, chairmanned by the Honorable Charles W. Sandman, Jr., Senator from Cape May County, to study and report upon a rail rapid transit system for Southern New Jersey. Members of the Authority met with Senator Sandman's Commission on September 25, 1956, for an exploratory discussion of the engineers' report.

The Authority is gratified to report that in the intervening months since the report was made public, it has received and is now receiving the most careful study by numerous organizations both in New Jersey and Pennsylvania.

A special effort was made to place copies of the parent report in libraries of colleges, universities and technical societies of the Port District, as well as in public libraries throughout the area, in order to afford the widest possible public access to its recommendations.

In addition to the initial report of Parsons, Brinckerhoff, Hall and Macdonald, the Authority requested a supplementary report which it was felt was necessary to clarify certain aspects of the problem. Cost of the survey was $325,000.00.

To quote from our own report:

> "The engineers propose that high-speed rail transit be provided from a terminal station near City Hall, Philadelphia, with a track connection to the Pennsylvania Railroad Suburban Station, through a new subway under Arch Street and a tunnel under the Delaware River to the existing elevated Broadway Station, Camden, and thence, fanning out along existing railroad rights-of-way to terminal stations just beyond Moorestown, Haddonfield and Woodbury. Stations would be built at Fifth and Tenth Streets along the Arch Street Subway in addition to the terminal in Philadelphia. The trunkline between Philadelphia and Camden would be 2.9 miles long and the spurs from Camden to Moorestown, Haddonfield and Woodbury, 10.6, 8.6 and 9.5 respectively. The rapid transit rails would be entirely separate from the railroad tracks. Grade separations would be provided, safety and comfort of passengers emphasized and patrons would enjoy a reduction in travel time estimated at ten million man hours a year."

This, in brief, is the physical structure of the system proposed. Our consulting engineers made a primary postulate of their survey that any mass transportation to meet the needs of the area would have to be realistically competititve with the private motor vehicle and, therefore, in the engineers' view, a decided improvement in terms of speed, comfort and convenience over now existing mass transportation.

This view the engineers expressed as follows:

> "The dominant problem for the Southern New Jersey area is whether to accept the stagnation and decline of regional mass transportation and the intensification of traffic congestion and frustration of regional development that will result, or whether to reinvigorate regional mass transportation.
>
> "We, on our part, look forward to the continued importance and vitality of the center city cores of Philadelphia and Camden; a continuation—even acceleration of the dispersion of homes to the residential subsurbs, and out of the prosperity of the center city cores and their commuters, the generation of substantial new commercial activity in Southern New Jersey. But this can only come about through the reinvigoration of mass transportation in a form to pentrate the downtown urban cores, link the centers of employment and commerce and collect from automobiles, before they accumulate in zones of potential congestion, the workers and shoppers upon whom the vitality of the whole region will depend.
>
> "The success of regional transportation will in turn depend upon its development of an attractive competitive posture in relation to the private automobile. To achieve this, interurban mass transit must provide comfortable seats for all passengers, must operate at high speed and must provide service at short intervals."

Such a system, the engineers advised us, would be "not only the best, but the least cost solution to the region's total land development and transportation problem."

It was apparent that the structure of the system proposed raised no insuperable technical or engineering problems. However, it was equally apparent that the financing of the system was—and remains—of a very different order of concern.

We addressed ourselves to this subject in the following language:

> "The Delaware River Port Authority endorses the conclusions of the engineers that the projected line should be constructed and put into operation as quickly as possible. There is no doubt as to its desirability. The question is—how can this system be financed? The engineers estimate that the cost of construction, rights-of-way and equipment, exclusive of financing charges and interest during construction, will be $242,000,000. Inclusion of the items omitted would necessitate a bond issue of from $282,000,000 to $30,000,000. The lesser amount would represent the saving that could be effected if the Commonwealth of Pennsylvania and the State of New Jersey 'or responsible sub-divisions thereof', would guarantee the bonds."

One of the requirements of our contract with Parsons, Brinckerhoff, Hall and Macdonald was that the report should have appended to it, as an annex, a financial feasibility study prepared by a financial consultant of accepted competence. Such an inquiry was made and reported upon by Smith, Barney and Company.

The financial feasibility study concluded that if the total net earnings of the Benjamin Franklin Bridge, the Walt Whitman Bridge and the proposed Northeast Philadelphia-New Jersey Bridge were pledged as security for forty years, they would support a bond issue of $113,600,000. This estimate arbitrarily fixed the sum of $250,000 a year for expenditures by the Authority's Port Development Department, or very close to the present level of expenditure for port purposes. In other words, a pledge of the Authority's total resources to the approximate end of the present century still would provide only 47 percent of the minimum estimated requirement for the transit system proposed.

Even a superficial study of the alternate means by which additional financing in the order of $128,400,000 could be obtained quickly revealed the difficulties. For that reason, the Authority asked the engineers in their addendum report to address themselves to an unequivocal statement as to the need for so large an investment.

The relevant portion of their response is:

> "Can the Delaware River Porth Authority, by dedicating all unencumbered resources of the Benjamin Franklin Bridge, Walt Whitman Bridge and new Northeast Philadelphia-New Jersey Bridge, if built, and by covenanting that it will build no new facilities and limit its expenditures for port promotion and development to $250,000 annually, finance the rail transit line projected in your report? . . ."
> "ANSWER: No.
>
> "Can the Authority, by thus pledging the total resources under its direction and control (i.e., $113,600,000) finance any transit system that would materially improve present transportation between South Jersey and Philadelphia?
>
> "ANSWER: If, as we postulated for the conduct of our work, the measure of material improvement of transit will be its ability to attract to its service substantially more travelers than now patronize existing mass transporation facilities—then our answer is no . . ."

The answer to our question, therefore, in the considered and experienced judgment of our consultants, was "all or nothing"—a system such as that proposed, requiring a minimum expenditure of $242,000,000, or none.

This reply, in effect, placed any further initiative in the matter beyond the legal powers of this Authority.

We are expressly debarred from having recourse to the credit of either the Commonwealth of Pennsylvania or the State of New Jersey, or of any of the political sub-divisions thereof. To erase this prohibition, if it were feasible, would require joint action by the Legislatures of both states to amend the Interstate Compact. It probably would involve the long-drawn-out and cumbersome procedure of constitutional amendment in both states.

Although, in our request for supplementary information, we pressed our consultants to supply us with feasible suggestions as to how some part of the financing might be effected at the local government level consistent with local attitudes and fiscal policy, no applicable suggestions were available.

The alternative of increasing tolls upon the interstate bridges now or in the future to be operated by the Authority not only would merely ameliorate the financial requirements, it would run solidly against the viewpoints and the interest of the very public which is our patron.

As we again commented in our report:

> "Increasing tolls, a most distasteful procedure, would therefore not balance the budget even if the Secretary of the Army, who has jurisdiction over tolls on interstate bridges, were willing to give his consent. Opposition from motorists would be naturally intense, based upon the ground that they were singled out to bear the burden of the rail transit project. They would undoubtedly assert that the present toll schedule covers operation costs and debt service on the bridges in use or proposed and claim that rail transit persons should pay their own way."

It is here that discussion of the matter and its determination rested at the close of the year.

We sought to summarize the problem in capsule form at the conclusion of our July report in these words:

"The engineers' detailed report points to a solution of a most difficult and pressing problem. Action to be taken by the Authority will, of course, be dictated by the Legislatures and the Governors."

THE NORTHEAST PHILADELPHIA-NEW JERSEY BRIDGE PROJECT

On April 2, 1956, a measure authorizing and empowering the Delaware River Port Authority to construct, operate and maintain a high-level vehicular bridge connecting Northeast Philadelphia and New Jersey was introduced in the Legislature of New Jersey by the Honorable Steelman Mathis, Senator from Ocean County.

The proposed legislation was referred to the Committee on Judiciary of the Senate of New Jersey. It had not been reported out at the end of the 1956 session.

A Pennsylvania counterpart was unanimously approved by the General Assembly of Pennsylvania late in 1955 and signed by Governor Leader in December of that year. Its provisions do not become effective until legislation in substantially similar form is enacted by New Jersey.

Since our annual report for 1955 discussed in some detail the reasons which prompted the Authority to seek enactment of such legislation and described the engineers' report which was submitted with it, a lengthy review in this report would be pointless.

However, it may be recalled that a serious conflict between motor vehicle traffic operating over the Taconey-Palmyra Bridge and shipping on the Delaware destined for points north of the bridge developed to a point where the Brulington County Bridge Commission petitioned the U. S. District Engineer for relief.

The petition requested that the District Engineer grant permission to the bridge operator to keep the drawspan of the Tacony-Palmyra Bridge closed from 7 A. M. to 8:30 A. M., and from 4:30 P. M. to 6 P. M., Monday through Friday of each week. These were and are the hours of peak vehicular traffic. Opening of the drawspan during these hours resulted in serious traffic congestion on the bridge approaches, the District Engineer was advised, and an ineqitable burden upon motorists regularly traversing it.

After public hearing, the District Engineer submitted his report, through channels, to the Chief of Army Engineers who, under date of January 20, 1956, published his findings of fact and conclusions.

"The record amply demonstrates," he concluded, "that the present low-level movable bridges, carrying heavy highway traffic over heavy navigation, are not adequate for present-day needs and should be replaced by a modern high-level structure or structures.

"The bridge openings result in economic loss not susceptible to exact analysis. Any savings to highway traffic by closed periods would not eliminate the economic loss, but merely transfer it to waterborne commerce and to vehicles crossing during hours outside the closed periods.

"Pending the long range solution of modern bridges, the present situation should be approached as a mutual problem of all interested in both land and water transportation and the development of the region rather than the imposition of any arbitrary restrictions on either form of transportation."

The Chief of Engineers stated that "the District Engineer is also being instructed to report further at the end of 90 days and the course of any future action will be determined by an evaluation of the beneficial results being obtained by continued cooperative action in limiting drawspan openings during peak hours of highway traffic."

On August 24, 1956, Colonel Clark, the United States District Engineer, issued a public notice to the effect that the cooperation among all parties at interest had resulted "in fewer openings of the drawbridges for the passages of vessels during the rush traffic periods," and that therefore the petition for closed periods was disallowed.

With full appreciation of the many factors involved in this issue, the Port Authority was and continues to be of the opinion that the Tacony-Palmyra Bridge is now and increasingly will become an obstacle to the free and unimpeded movement of traffic, whether water-borne upon the Delaware or landborne between the two states.

In our judgment, many factors mentioned elsewhere in this report will sustain our position as the months advance. Among them are the deepening of the channel between the Philadelphia Naval Base and Trenton, the steady increase in tonnages proceeding to industrial plants north of the bridge, the opening of new industry in Burlington and Camden counties and the heavy interstate vehicular traffic, both commercial and private, which these developments will induce.

Sooner or later, we believe, these various factors will merge into a crisis which can be relieved only by the construction of a multilane high level bridge with approach roads and highway interconnections at least as extensive as those of the Walt Whitman Bridge.

In accordance with both the spirit and the letter of the Interstate Compact, we have moved to the limit of our authority in an effort to anticipate and forestall that crisis, with all of its implications of artificial restraint upon the commerce and industry of the heart of our Port District.

IN CONCLUSION

We note for this record and with regret the death during 1956 of Homer R. Seely, employed by our consulting engineers, Modjeski and Masters, Ammann and Whitney, as Project Engineer during construction of the Walt Whitman Bridge. Ralph C. Holt replaced Mr. Seely as Project Engineer.

The terms of Messrs. Walter M. Phillips, Harry G. Schad and James V. Baney as members of the Port Authority expired with adjournment of the Pennsylvania Legislature on May 22, 1956. Subsequently, Governor Leader re-appointed Mr. Baney and nominated Ted Schlanger and Frank M. Steinberg, both of Philadelphia, to replace Mr. Phillips and Mr. Schad.

The record of the year's activity herein outlined is testimony, in the Authority's view, of the steady if unspectacular and judicious extension of our efforts into the complete category of public purposes for which it was created. Their effectuation, as is the case with numerous other public purposes, involves differences and in some cases actual conflicts of view. These are unimportant, and readily susceptible of conciliation and compromise, so long as the long-range objective of the welfare of the people of our two states is not obscured. It will not be through any conscious act of this Authority.

We renew our appreciation of the many acts of friendly cooperation and interest manifested by the legislative and executive branches of the Commonwealth of Pennsylvania and the State of New Jersey in 1956. Throughout our port district, the door of the year is ajar upon a period of extraordinary opportunity and challenge in the public interest. We bespeak your continued support and interest to the end that, so far as the acts of this Authority are concerned, the opportunity is neither lost nor wasted.

Respectfully submitted,

DELAWARE RIVER PORT AUTHORITY

PENNSYLVANIA	NEW JERSEY
Weldon B. Heyburn, Chairman	J. William Markeim, Vice-Chairman
Edwin R. Cox	Arthur C. King
Charles R. Barber	Edward C. McAuliffe
James V. Baney	Erwins S. Cunard
Edward G. Budd, Jr.	James P. Johnson
Samuel B. Regalbuto	Ralph Cornell
Ted Schlanger	Earl B. Howe
Frank M. Steinberg	(Vacancy)

Joseph K. Costello, Executive Director
John M. McCullough, Secretary

December 31, 1956

Frank Wilbur Main, C.P.A. (1903-1954)
William R. Main, C.P.A. (1920-1947)

M. C. Conick, C.P.A.
A. Lawrence Jacobs, C.P.A.
J. S. Cowing, C.P.A.
Russel S. Hunsberger, C.P.A.
LeRoy Layton, Jr., C.P.A.
Charles F. Toewe, C.P.A.
Ross S. Tippin, C.P.A.
Joseph C. Hudson, C.P.A.
Benjamin Bricklin, C.P.A.
William E. Shirley, C.P.A.
John B. Welsh, C.P.A.
Thomas C. Ottey, C.P.A.
Edward E. Spangler, C.P.A.

Austell H. Mercer
Henry J. Propert

New York
Woolworth Building
Pittsburgh, Pa.
First National Bank Building
Philadelphia, Pa.
Packard Building
Harrisburg, Pa.
Commerce Building
Houston, Texas
Commerce Building
El Paso, Texas
1881 Building
San Francisco, Calif.
Kohl Building
Los Angeles, Calif.
Roosevelt Building
Washington, D. C.
Pennsylvania Building

MAIN AND COMPANY
Certified Public Accountants
Philadelphia 2, Pa.
RIttenhouse 6-9640

February 1, 1957

Delaware River Port Authority
Administration Building
Camden, N. J.

We have examined the balance sheet of the DELAWARE RIVER PORT AUTHORITY as of December 31, 1956, the statement of revenues and expenses for the year then ended and related supporting statements. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

Because the accounts for tolls, rentals and operating expenses are maintained on the cash basis, the accompanying statements do not reflect prepayments and accruals of certain relatively minor items. Otherwise the accounting is maintained on the accrual basis.

Subject to the preceding paragraph, it is our opinion, that the accompanying balance sheet, statement of revenues and expenses and supporting related statements fairly present the financial position of the Delaware River Port Authority at December 31, 1956, and the results of operations for the twelve months then ended, in conformity with acceptable accounting principals consistently applied.

MAIN AND COMPANY
Certified Public Accountants

BALANCE SHEET—

BENJAMIN FRANKLIN BRIDGE FUNDS

		TOTAL	Capital	Operating	1946 Bond Sinking Fund*	1946 Bond Retirement Fund* (Trustee Account)
ASSETS						
Cash (Schedule A-1)		$ 701,896.00		$ 96,887.62	$ 1,592.68	$ 526.04
Investments (Schedule A-2)		48,853,005.28		100,000.00	3,619,691.97	1,904,657.98
Accrued interest receivable		268,255.99		1,039.72	23,714.10	6,282.29
Unexpired insurance		56,916.25		56,685.85		
Unexpended appropriations (contra):						
Walt Whitman Bridge (Schedule A-3)						
Bridge	$ 1,472,858.33					
Approaches	7,118,176.87					
	$ 8,591,035.20					
Engineering and testing	292,900.70					
Land	332,912.35					
	$ 9,216,848.25					
Painting Benjamin Franklin Bridge	41,904.28			41,904.28		
Port Development	32,629.05					
Limited access highway extending 6 miles eastward from Benjamin Franklin Bridge (10% of est. cost)	2,000,000.00					
Total unexpended appropriations		11,291,381.58				
Investment in facilities:						
Benjamin Franklin Bridge, bridge buildings and improvements (Schedule A-4)		40,315,323.92	$40,315,323.92			
Benjamin Franklin Bridge subway system (Schedule A-4)		11,163,524.11	11,163,524.11			
Walt Whitman Bridge (Schedule A-3)		74,456,887.37	692,957.29			
Surveys:						
Mass transit system for Southern New Jersey		329,316.31	329,316.31			
Proposed Northeast Philadelphia-New Jersey Bridge		17,648.60	17,648.60			
TOTALS		$ 187,454,155.41	$52,518,770.23	$ 296,517.47	$ 3,644,998.75	$ 1,911,466.31
					→	3,644,998.75
						$5,556,465.06
LIABILITIES						
Accrued interest payable due June 1, 1957		$ 2,630.00				2,630.00
Accrued interest payable due June 15, 1957		141,302.08				
Accrued pension payable		43,161.65		$ 39,628.07		
Accounts payable pending fulfillment of compact requirement by New Jersey State Treasurer (Schedule A-3)		166,170.74				
Retained amount on contracts (Schedule A-3)		2,863,568.84		34,478.07		
Reserve for replacements and repair		160,991.07		160,991.07		
Commitments (contra)		11,291,381.58		41,904.28		
Funded Debt: (Schedule A-5)						
1946 Refunding bonds		3,156,000.00				3,156,000.00
1953 First series revenue bonds		100,000,000.00	10,843,301.80			
Equity (Schedule B)		69,628,949.45	41,675,468.43	19,515.98		2,397,835.06
TOTALS		$ 187,454,155.41	$52,518,770.23	$ 296,517.47		$5,556,465.06

*Companion funds of which the net equity exceeds the $297,190 interest to the maturity of the bonds by $2,100,645.06.

SCHEDULE A

WALT WHITMA BRIDGE FUNDS

General Reserve Fund	Bond Service Fund	Bond Reserve Fund	Construction Fund Bridge	Construction Fund Approaches
$ 26,540.27	$523,009.39	$ 136.02	$ 51,038.24	$ 2,165.74
13,405,423.29	35,000.00	10,054,805.80	10,753,212.81	8,980,213.43
67,577.35	316.34	14,710.99	154,615.20	
230.40				
			2,098,671.38	7,118,176.87
32,629.05				
2,000,000.00				
			40,328,235.63	33,435,694.45
$15,532,400.36	$558,325.73	$10,069,652.81	$53,385,773.26	$49,536,250.49
	$141,302.08			
$ 3,533.58				
				$ 166,170.74
			$ 1,131,059.21	1,698,031.56
2,032,629.05			2,098,671.38	7,118,176.87
		$ 3,391,250.00	45,211,576.88	40,553,871.32
13,496,237.73	417,023.65	6,678,402.81	4,944,465.79	
$15,532,400.36	$558,325.73	$10,069,652.81	$53,385,773.26	$49,536,250.49

BANK DEPOSITS—December 31, 1956

SCHEDULE A-1

BOND SERVICE FUND			
Boardwalk National Bank—Atlantic City		(Inactive)	$ 1,619.76
Bridgeton National Bank		"	360.63
Broad Street Trust Company—Philadelphia		"	2,694.12
Burlington County Trust Company—Moorestown		"	866.53
Camden Trust Company (Oaklyn)		"	380.05
Central-Penn National Bank		"	2,677.88
Farmers & Merchants National Bank—Bridgeton		"	1,337.85
Fidelity-Philadelphia Trust Company		"	2,676.36
First Camden National Bank & Trust Company		"	584.78
The First National Bank—Cape May Court House		"	360.64
" " " " —Glassboro		"	360.87
" " " " —Minotola		"	361.15
" " " " —Newfield		"	362.68
" " " " —Pedricktown		"	3,585.73
" " " " —Riverside		"	450.28
" " " " —Toms River		"	236,623.21
" " " " & Trust Company—Woodbury		"	360.19
The First Pennsylvania Banking & Trust Company		"	2,682.07
Girard Trust Corn Exchange Bank—Philadelphia		"	5,950.06
Haddonfield National Bank		"	232,882.45
Laurel Springs National Bank		"	710.40
Liberty Real Estate Bank & Trust Company		"	2,691.71
Marine National Bank—Wildwood		"	3,224.90
The National Bank of Mantua		"	322.00
The Philadelphia National Bank		"	2,680.73
Pitman National Bank & Trust Company		"	2,029.30
Provident Trust Company—Philadelphia		"	2,693.15
Riverside Trust Company		"	449.63
Tradesmens Bank and Trust Company		"	2,679.01
Trenton Trust Company		"	1,423.76
Union National Bank & Trust Company—Mt. Holly		"	1,901.53
The First Pennsylvania Banking & Trust Company		(Active)	5,025.98
			$523,009.39
1946 BOND SINKING FUND			
Tradesmens Bank & Trust Company		(Active)	$ 1,592.68
1946 BOND RETIREMENT FUND			
Tradesmens Bank & Trust Company		(Active)	526.04
GENERAL RESERVE FUND			
Camden Trust Company	(Active)	$24,540.27	
Manufacturer's Trust Company, New York	"	500.00	
Fidelity Trust Company of Pittsburgh	"	500.00	
First National Bank of Chicago	"	1,000.00	26,540.27
BOND RESERVE FUND—The First Pennsylvania Banking & Trust Co.		(Active)	136.02
OPERATING FUND—Camden Trust Company (Active)		$94,287.62	
(On Hand)		2,600.00	96,887.62
CONSTRUCTION FUND—The First Pennsylvania Banking & Trust Co. (Active)		$51,038.24	
Camden Trust Company		2,165.74	53,203.98
TOTAL			$701,896.00

SCHEDULE A-2

INVESTMENTS—December 31, 1956

	Par Value	Book Value	Market Value
BRIDGE OPERATING FUND:			
U. S. Tr. 2¾% "B" Certificates due 3/22/57	$ 100,000	$ 100,000.00	$ 99,875.00
	$ 100,000	$ 100,000.00	$ 99,875.00
1946 BOND SINKING FUND:			
U. S. Tr. Discount bills due 2/14/57	$ 20,000	$ 19,925.53	$ 19,921.50
U. S. Tr. 2⅛% Bonds due 11/15/60	70,000	70,000.00	66,281.25
U. S. Tr. 2½% Bonds due 11/15/61	1,500,000	1,521,234.36	1,419,375.00
U. S. Tr. 2¼% Bonds due 6/15/62-59	10,000	9,963.39	9,350.00
U. S. Tr. 2½% Bonds due 8/15/63	2,000,000	1,998,568.69	1,868,750.00
	$ 3,600,000	$ 3,619,691.97	$ 3,383,677.75
1946 BOND RETIREMENT FUND:			
(Tradesmens Bank & Trust Co., Trustee)			
U. S. Tr. 2½% Bonds due 11/15/61	$ 1,830,000	$ 1,855,105.59	$ 1,731,637.50
U. S. Tr. 2½% Bonds due 8/15/63	50,000	49,552.39	46,718.75
	$ 1,880,000	$ 1,904,657.98	$ 1,778,356.25
GENERAL RESERVE FUND:			
U. S. Tr. 2⅜% Bonds due 6/15/58	$ 130,000	$ 130,012.38	$ 127,521.88
U. S. Tr. 2¾% Bonds due 9/15/61	460,000	460,000.00	442,175.00
U. S. Tr. 2½% Bonds due 11/15/61	3,170,000	3,204,126.17	2,999,612.50
U. S. Tr. 2¼% Bonds due 6/15/62-59	600,000	598,798.40	561,000.00
U. S. Tr. 2½% Bonds due 8/15/63	5,200,000	5,191,583.74	4,858,750.00
U. S. Tr. 2½% Bonds due 12/15/69-64	3,800,000	3,810,902.60	3,365,375.00
Ventnor City Nat'l Bank 2½% Certificate of Deposit 1/18/57	10,000	10,000.00	10,000.00
	$13,370,000	$13,405,423.29	$12,364,434.38
BOND RESERVE FUND:			
U. S. Tr. 2⅜% Bonds due 6/15/58	$ 130,000	$ 127,466.78	$ 127,521.88
U. S. Tr. 2⅞% "A" Notes due 6/15/58	1,150,000	1,148,362.97	1,136,343.75
U. S. Tr. 2½% Bonds due 11/15/61	1,700,000	1,670,896.27	1,608,625.00
U. S. Tr. 2½% Bonds due 6/15/69-64	400,000	386,942.41	354,500.00
U. S. Tr. 2½% Bonds due 12/15/69-64	6,750,000	6,721,137.37	5,977,968.75
	$10,130,000	$10,054,805.80	$ 9,204,959.38
BOND SERVICE FUND:			
Egg Harbor City Trust Co. 2½% Certificate of Deposit 6/11/57	$ 10,000	$ 10,000.00	$ 10,000.00
Boardwalk Nat'l Bank 2½% Certificate of Deposit 1/6/57	25,000	25,000.00	25,000.00
	$ 35,000	$ 35,000.00	$ 35,000.00
CONSTRUCTION FUND:			
U. S. Tr. Discount bills due 1/24/57	$ 100,000*	$ 99,813,87	$ 99,798.70
U. S. Tr. Discount bills due 2/15/57	100,000*	99,611.54	99,586.00
U. S. Tr. 2⅞% "A" Notes due 3/15/57	1,000,000	1,002,642.08	998,750.00
U. S. Tr. 1⅝% "B" Notes due 5/15/57	1,000,000	1,000,000.00	992,500.00
U. S. Tr. 2¾% "D" Notes due 8/1/57	400,000*	400,000.00	398,500.00
U. S. Tr. 2¾% "D" Notes due 8/1/57	4,080,000	4,080,000.00	4,064,700.00
U. S. Tr. 2% "C" Notes due 8/15/57	10,350,000	10,350,000.00	10,259,437.50
U. S. Tr. 1½% "E" Notes due 10/1/57	2,700,000	2,701,358.75	2,666,250.00
	$19,730,000	$19,733,426.24	$19,579,522.20
TOTAL INVESTMENTS	$48,845,000	$48,853,005.28	$46,445,824.96

* Deposited in the Camden Trust Co. to provide funds to make payments on approach roads work contracted for by New Jersey, the costs of which are to be borne by the Port Authority.

WALT WHITMAN BRIDGE—COST TO DECEMBER 31, 1956

SCHEDULE A-3

CONTRACTS LET FOR CONSTRUCTION: BRIDGE SECTION:	Total Commitments	Amount Earned (&/or billed)	Amount Paid (P) to be paid	Amount Retained	Amount Unearned (&/or not billed)
#1 Fehlhaber Corp.—2 River Piers	$ 3,364,395.56	$ 3,364,395.56	$ 3,364,395.56	(contract completed 3/28/55)	
#2 Merritt, Chapman and Scott Corp.—Anchorage Foundations	3,416,670.41	3,416,670.41	3,416,670.41	(contract completed 12/3/54)	
#3 Booth and Flinn Co.—Anchorage Superstructure	3,647,075.00	3,527,077.99	3,344,724.24	$ 182,353.75	$ 119,997.01
#4 Bethlehem Steel Co.—Towers, Cable Anchorage Medalwork	6,610,070.00	6,575,326.16	6,575,326.16		34,743.84
#5 American Bridge Div.—U. S. Steel Corp.—Cables and Suspenders	4,768,293.25	4,629,696.23	4,391,281.57	238,414.66	138,597.02
#6 Bethlehem Steel Co.—Suspended Structure, Decks on Anchorages	7,666,263.90	7,420,885.38	7,037,572.18	383,313.20	245,378.52
#7 W. V. Pangborne & Co., Inc.—Lighting and Electrical Work	1,238,346.00	444,658.00	400,192.20	44,465.80	793,688.00
#8 Washington Aluminum Co.—Traffic Lane Marker Structures	182,920.00	73,396.80	66,057.12	7,339.68	109,523.20
#9 Union Paving Co.—Asphaltic Concrete Pavement on Bridge Structure	162,900.74	131,970.00	123,727.80	8,242.20	30,930.74
Total Contracts Let for Construction of Bridge Section—including change orders and extra work orders	$31,056,934.86	$29,584,076.53	$28,719,947.24	$ 864,129.29	$1,472,858.33
APPROACHES (Schedule A-3a)	40,553,871.32	33,435,694.45	31,571,492.15 (P) 166,170.74	1,698,031.56	7,118,176.87
Total Construction	$71,610,806.18	$63,019,770.98	$60,457,610.13	$2,562,160.85	$8,591,035.20
ENGINEERING:					
Design, Supervision and Consulting: (5½% of estimated $74,107,538.89 construction costs)	$ 4,075,914.64	$ 3,840,264.81	$ 3,573,334.89	$ 266,929.92	$ 235,649.83
Test borings and other engineering	583,447.30	533,549.80	533,549.80		49,897.50
Inspection and testing	78,646.25	76,292.88	76,292.88		2,353.37
Motion picture of construction	25,000.00	20,000.00	20,000.00		5,000.00
Total engineering	$ 4,763,008.19	$ 4,470,107.49	$ 4,203,177.57	$ 266,929.92	$ 292,900.70
ADMINISTRATIVE: (Including Legal and Financial)	$ 218,878.34	$ 218,878.34	$ 218,878.34		
REAL ESTATE (Land):					
New Jersey	$ 1,083,077.06	$ 1,083,077.06	$ 1,083,077.06		
Pennsylvania	5,997,965.85	5,665,053.50	5,665,053.50		332,912.35
Total Real Estate	$ 7,081,042.91	$ 6,748,130.56	$ 6,748,130.56		$ 332,912.35
GRAND TOTAL—December 31, 1956	$83,673,735.62	$74,456,887.37*	$71,627,796.60*	$2,829,090.77	$9,216,848.25

(*$692,957.29 paid from Phila.-Camden Bridge toll funds)

WALT WHITMAN BRIDGE APPROACHES—COST TO DECEMBER 31, 1956 SCHEDULE A-3a

CONTRACTS LET FOR APPROACH CONSTRUCTION	Total Commitments	Amount Earned (&/or billed)	Amount Paid (P) to be paid	Amount Retained	Amount Unearned (&/or not billed)
PHILADELPHIA					
#P-1 American Dredging Co.—Grading, etc.	$ 1,474,500.03	$ 1,462,714.91	$ 1,389,579.16	$ 73,135.75	$ 11,785.12
Less: Cash received from B. & O. R. R.	6,284.15	6,284.15	6,284.15		
	$ 1,468,215.88	$ 1,456,430.76	$ 1,383,295.01	$ 73,135.75	$ 11,785.12
#P-2 Conduit & Foundation Corp.—Viaduct Substructure	$ 2,151,329.90	$ 2,151,329.90	$ 2,151,329.90	(contract completed 8/31/56)	
#P-3 Bethlehem Steel Co.—Viaduct Superstructure	7,014,344.06	7,014,344.06	6,664,450.01	349,894.05	
#P-4 Perry J. Goldman Constr. Co.—Retaining Wall	135,091.33	135,091.33	135,091.33	(contract completed 1/14/55)	
#P-5 Laub Constr. Co.—PRR Overpass	562,840.48	562,840.48	562,840.48	(contract completed 11/27/56)	
#P-6 Kaufman Constr. Co.—Grading, Drainage, Separation Structures, etc.	3,679,542.55	3,679,542.55	3,496,720.50	182,822.05	
#P-7 Kaufman Constr. Co.—Grading & Drainage (West of Moyamensing Ave.)	2,423,917.88	1,045,995.20	941,395.68	104,599.52	1,377,922.68
#P-8 W. V. Pangborne & Co., Inc.—Roadway Lighting	163,700.00	38,818.40	34,936.56	3,881.84	124,881.60
#P-9 Glasgow, Inc.—Paving & Drainage	2,426,339.95	1,156,953.25	1,041,257.92	115,695.33	1,269,386.70
#P-10 Administration, Maintenance Buildings, Toll Houses and Equipment:					
(a) McCloskey & Co.—General Construction Work	1,424,077.23	539,500.82	485,550.74	53,950.08	884,576.41
(b) L. E. Winter & Co., Inc.—Plumbing Work	225,877.60	82,487.99	74,239.19	8,248.80	143,389.61
(c) Williard, Inc.—Heating and Ventilating	251,751.70	6,807.98	6,127.18	680.80	244,943.72
(d) W. V. Pangborne & Co., Inc.—Electrical Work	786,000.00	354,701.00	319,230.90	35,470.10	431,299.00
#P-11 Glasgow, Inc.—Fencing, Misc. Paving and Cleanup	270,702.00				270,702.00
#P-12 Kaufman Constr. Co.—Ramp "M" Structure	627,402.25	226,155.50	203,539.95	22,615.55	401,246.75
#P-13 H. J. Elkins, Inc.—New Stacks—Publicker Power Plant	202,894.00				202,894.00
#P-14 Perry J. Goldman Constr. Co.—Cinder Bins	91,600.00				91,600.00
NEW JERSEY					
#G-1 H. J. Elkins, Inc. & Van Wyk Constr. Co.—Truss Spans Substructure	611,726.85	611,726.85	611,726.85	(contract completed 3/6/56)	
#G-2 Bethlehem Steel Co.—Truss Spans Superstructure	3,368,265.80	3,301,217.90	3,132,894.61	168,323.29	67,047.90
#G-3 Union Building & Constr. Corp.—Stringer Spans Substructure $1,555,400.00					
Less: Estimated amount to be paid by N. J. Highway Dept. 152,870.00	1,402,530.00	1,450,049.20	1,372,279.20	77,770.00	(47,519.20)
Less: Cash received from the N. J. Highway Dept.		71,938.80	71,938.80		(71,938.80)
	$ 1,402,530.00	$ 1,378,110.40	$ 1,300,340.40	$ 77,770.00	$ 24,419.60

(Continued on Next Page)

WALT WHITMAN BRIDGE APPROACHES—COST TO DECEMBER 31, 1956 SCHEDULE A3-a—Continued

		Total Commitments	Amount Earned (&/or billed)	Amount Paid (P) to be paid	Amount Retained	Amount Unearned (&/or not billed)
#G4	N. Y. Shipbuilding Corp.—Stringer Spans Superstructure	$3,758,513.70				
	Less: Estimated amount to be paid by N. J. Highway Dept.	204,645.83	$ 3,553,867.87	$ 2,883,625.30	$ 2,695,699.62	$ 187,925.68	$ 670,242.57
	Less: Cash received from the N. J. Highway Dept.			42,511.55	42,511.55		(42,511.55)
			$ 3,553,867.87	$ 2,841,113.75	$ 2,653,188.07	$ 187,925.68	$ 712,754.12
#G-5	F. A. Canuso & Sons, Inc.—Bridges, Crescent Blvd. and Black Horse Pike		$ 527,330.00	$ 508,695.75	$ 482,329.24	$ 26,366.51	$ 18,634.25
#G-6	Public Constructors, Inc.—Paving, Grading, etc.	$1,045,239.78				
	Less: Estimated amount to be paid by N. J. Highway Dept.	63,341.17	981,898.61	763,924.75	711,662.76	52,261.99	217,973.86
	Less: Cash received from the N. J. Highway Dept.			42,286.50	42,286.50		(42,286.50)
			$ 981,898.61	$ 721,638.25	$ 669,376.26	$ 52,261,99	$ 260,260.36
#G-7	Police Building:						
	(a) N. DiTommaso Co.—General Construction		$ 39,263.00	$ 36,907.22	$ 34,944.07	$ 1,963.15	$ 2,355.78
	(b) Benjamin Lessner Company—Plumbing		9,630.00	7,318.80	6,837.30	481.50	2,311.20
	(c) Benjamin Lessner Company—Heating		4,780.00	1,673.00	1,505.70	167.30	3,107.00
	(d) Henkels & McCoy—Electrical		2,850.00				2,850.00
#G-8	W. V. Pangborne & Co., Inc.—Lighting	$ 244,134.00					
	Less: Estimated amount to be paid by N. J. Highway Dept.	136,154.70	107,979.30	55,076.22	49,568.60	5,507.62	52,903.08
N. J. Approach Contracts Let by N. J. Highway Dept.—Port Authority's Share:			Total				
	G. M. Brewster & Son, Inc., #I & II		$ 5,144,691.67	$ 5,042,124.89	$ 4,758,622.10 (P) 88,237.73	$ 195,265.06	$ 102,566.78
	Public Constructors, Inc., #III		233,914.52	155,757.75	118,143.07 (P) 22,038.91	15,575.77	78,156.77
	F. A. Canuso & Sons, Inc., #IV		290,333.66	154,298.22	82,974.30 (P) 55,894.10	15,429.82	136,035.44
			$ 5,668,939.85	$ 5,352,180.86	$ 4,959,739.47 (P) 166,170.74	$ 226,270.65	$ 316,758.99
Total Contracts Let for Construction of Approaches—including change and extra work orders			$40,184,688.09	$33,266,658.22	$31,402,455.92 (P) 166,170.74	$1,698,031.56	$6,918,029.87
Other Construction on Approaches Authorized			$ 369,183.23	$ 169,036.23	$ 169,036.23		$ 200,147.00
Grand Total of Approaches Construction (Contracts and Miscellaneous)			$40,553,871.32	$33,435,694.45	$31,571,492.15 (P) 166,170.74	$1,698,031.56	$7,118,176.87

COSTS OF BENJAMIN FRANKLIN BRIDGE, BRIDGE BUILDINGS AND IMPROVEMENTS TO DECEMBER 31, 1956

SCHEDULE A-4

			Cost	Book Value
Original cost of Bridge, land, approaches and administration building contributed by the Commonwealth of Pennsylvania, the State of New Jersey and the Ctiy of Philadelphia			$37,078,894.97	$37,078,894.97
Less: Refunds of principal and interest, net of interest credits, to July 1, 1931				3,871,484.15
Totals to July 1, 1931			$37,078,894.97	$33,207,410.82
Subsequent Improvements:				
Maintenance building (including U. S. Grants of $57,230.71)		$ 130,561.86		
Air conditioning system in administration building		13,931.09		
Pier 11½ North, Philadelphia		111,948.08		
Bridge roadway widening (6 to 8 lanes) and allied improvements		6,236,720.56		
Participation in cost of improvements to street approaches to bridge				
Philadelphia		200,000.00		
Camden		157,040.31		
Participation in cost of removal of railroad tracks, Camden		250,000.00		
Fire-fighting installation on Bridge		7,711,20	7,107,913.10	7,107,913.10
Total Benjamin Franklin Bridge, bridge buildings and improvements			$44,186,808.07	$40,315,323.92
BENJAMIN FRANKLIN BRIDGE HIGH-SPEED TRANSIT SYSTEM:				
Proceeds of $7,158,000 principal amount of Bridge bonds sold		$ 7,655,170.32		
Interest received on deposits of bond proceeds		5,425.42		
United States Government Grants	$2,302,975.13			
Less: Appropriated to Sinking Fund	402,975.13	1,900,000.00		
Toll funds used:				
Original construction	$1,424,787.79			
Participation in cost of improvements to Broadway Station, Camden	177,379.08			
Alterations, 5th and Market Streets, Camden	761.50	1,602,928.37	11,163,524.11	11,163.524.11
Total cost of Benjamin Franklin Bridge, bridge buildings, improvements and High-Speed Transit System			$55,350,332.18	$51,478,848.03

Refunding Bonds— FUNDED DEBT TO DECEMBER 31, 1956 SCHEDULE A-5

		Premiums and Discounts				
			Premiums			Discounts
		Principal	Received on Sales	Paid on Redemptions	Paid on Purchases	Received on Purchases
4¼% Bridge bonds of Sept. 1, 1933 due Sept. 1, 1935 to 1973, callable on or after Sept. 1, 1943 @ 105:						
Issued Sept. 1, 1933 to liquidate balance of debt to Commonwealth of Pennsylvania		$ 9,208,000				
Issued Sept. 1, 1933 to liquidate balance of debt of State of New Jersey		12,199,000				
Issued Feb. 6 to May 24, 1934 to liquidate balance of debt of City of Philadelphia		9,555,000				
($31,000,000 authorized less $38,000 unissued and cancelled)		$30,962,000				
Issued April 25, 1934 to April 24, 1936 to defray the cost of High-Speed Transit Project construction ($10,000,000 authorized less $2,842,000 unissued and cancelled)		7,158,000	$497,170.32			
Total issued ($41,000,000 authorized less $2,880,000 unissued and cancelled)		$38,120,000				
Less: Scheduled maturities 1935 to 1943	$ 2,372,000					
Purchased in the market Nov. 4, 1940 to Feb. 9, 1942	510,000				$58,876.25	
		2,882,000				
Called as of Sept. 1, 1943 @ 105 and refunded Aug. 1, 1943 @ 2.70%		$35,238,000				
Redemption premium @ 5% refunded Aug. 1, 1943 @ 2.70%		1,761,900		$1,761,900.00		
Amount added to equalize balance refunded Aug. 1, 1943 @ 2.70%		100				
2.70% Refunding Bridge bonds of Aug. 1, 1943 due Aug. 1, 1973: Callable on or after Aug. 1, 1946 @ 105		$37,000,000	37,000.00			
Called and paid from the sinking fund Aug. 1, 1946 at 105		Premium ...		1,850,000.00		
		Principal ...	7,000,000			
Refunded June 1, 1946 @ 1%	$25,750,000	$30,000,000	9,900.00			
Refunded June 1, 1946 @ 3%	4,250,000					
(net interest cost of 1.0335%)						
3% Refunding Bridge bonds of June 1, 1946 due Dec. 1, 1946 to Dec. 1, 1948 @ $850,000 semi-annually	$ 4,250,000					
1% Refunding Bridge bonds of June 1, 1946 due June 1, 1949 to June 1, 1950 @ $850,000 semi-annually	2,550,000					
1% Refunding Bridge bonds of June 1, 1946 due Dec. 1, 1950 to June 1, 1954 @ $900,000 semi-annually	7,200,000					
Total Serial bonds	$14,000,000					

1% Refunding Bridge bonds of June 1, 1946 due June 1, 1966 Total term bonds	16,000,000					
	$30,000,000					
The $21,400,000 bonds maturing on or after Dec. 1, 1951 were subject to redemption on any interest payment date on or after June 1, 1951 @ 102.						
3's due Dec. 1, 1946 to Dec. 1, 1948 matured and retired	$ 4,250,000					
1's due June 1, 1949 to June 1, 1954 matured and retired	9,750,000					
1's due June 1, 1966 redeemed October 24, 1947 to December 31, 1956 (through open market purchases) and cancelled	12,844,000	26,844,000				$1,238,182.50
Outstanding: Due June 1, 1966		$ 3,156,000				
Total premiums and discounts			$544,070.32	$3,611,900.00	$ 58,876.25	$1,238,182.50

First Series Revenue Bonds—

(Delaware River Bridges) (issued at par—net interest cost of 3.4350%)

Dated May 15, 1953 and due December 15th as follows:

1957	4%	$ 600,000	1967	3¼%	2,900,000
1958	4%	900,000	1968	3¼%	3,100,000
1959	3%	1,200,000	1969	3¼%	3,300,000
1960	3%	1,400,000	1970	3¼%	3,400,000
1961	3%	1,600,000	1971	3¼%	3,500,000
1962	3%	1,800,000	1972	3¼%	3,500,000
1963	3%	2,000,000	1973	3¼%	3,500,000
1964	3¼%	2,200,000	1983	3½%	60,000,000
1965	3¼%	2,400,000			
1966	3¼%	2,700,000	Outstanding		$100,000,000

The bonds will be callable at the option of the Authority, as a whole at any time, or in part on any interest payment date in inverse of maturity, commencing on June 15, 1958 at 104% of the principal amount to and including December 15, 1962; thereafter at 103% to and including December 15, 1967; thereafter at 102% to and including December 15, 1972; thereafter at 101% to and including December 15, 1977; and thereafter at 100% plus accrued interest in each case.

SCHEDULE B

REVENUES AND EXPENSES

1956

OPERATING REVENUES:		
Bridge tolls		$ 9,220,942.01
Rail transit line rentals		164,056.38
Other rentals		5,150.00
Total operating revenues		$ 9,390,148.39
OPERATING EXPENSES:		
Salaries	$1,293,117.04	
Equipment	9,044.15	
Supplies	40,590.91	
Repairs	141,019.23	
Miscellaneous (including $34,102.05 light & heat)	241,294.42	
Insurance (all risk and income)	45,265.26	1,770,331.01
Net operating revenues		$ 7,619,817.38
INTEREST INCOME:		
Interest on investments	$1,416,063.44	
Interest on bank balances	15,830.45	1,431,893.89
Net revenues before interest on debt, port development expenses and non-operating adjustments		$ 9,051,711.27
INTEREST ON FUNDED DEBT:		
1946 Refunding bonds	$ 64,243.83	
1953 First series revenue bonds	3,391,250.00	3,455,493.83
Net revenues before port development expenses and non-operating adjustments		$ 5,596,217.44
PORT DEVELOPMENT EXPENSES		239,803.91
Net revenues before non-operating adjustments		$ 5,356,413.53
NON-OPERATING ADJUSTMENTS:		
Discount on purchase of 1946 refunding bonds		400,200.00
Balance of net revenues		$ 5,756,613.53
EQUITY:		
Balance at beginning of year		63,872,335.92
Balance at end of year		$69,628,949.45

FINANCIAL HISTORY TO DECEMBER 31, 1956 SCHEDULE C

	State of New Jersey	Commonwealth of Pennsylvania	City of Philadelphia	Total Interest	Total Principal
Original cost of Bridge, land and buildings	$15,900,235.33	$10,576,894.54	$10,601,765.10		$37,078,894.97
Interest to September 1, 1933, net	5,200,432.75	3,176,842.48	3,501,821.26	$11,879,096.49	
Total cost of Bridge and interest to September 1, 1933	$21,100,668.08	$13,753,737.02	$14,103,586.36		
Less: Cash refunds to September 1, 1933	8,901,668.08	4,545,737.02	4,548,586.36		
Balance of debt, September 1, 1933, funded by issuance of 4¼% bonds (Schedule A-5)	$12,199,000.00	$ 9,208,000.00	$ 9,555,000.00		
Subsequent improvements (Schedule A-4)					18,271,437.21
Total cost of Benjamin Franklin Bridge and improvements (Schedule A-4)					$55,350,332.18
Expenditures to date re: Walt Whitman Bridge (Schedule A-3)					74,456,887.37
Total cost to date of all facilities					$129,807,219.55
Interest on funded debt				$ 32,061,974.90	
Premiums paid, net of premiums and discounts received, on funded debt (Schedule A-5)				1,888,523.43	
				$ 45,829,594.82	
Less: Interest on investments ($9,709,907.43), plus U.S. grants ($402,975.13) appropriated to Sinking Fund				10,112,882.56	35,716,712.26
Total operating expenses				$ 24,990,687.28	
Total port development expenses				1,323,584.22	26,314,271.50
Total expenditures to date					$191,838,203.31
Less: Gross receipts (including $1,957,230.71 of U.S. grants)					135,531,417.36
Excess of total expenditures over total receipts					$ 56,306,785.95
Accounted for by Balance Sheet items (Schedule A)					
Oustanding bonds				$103,156,000.00	
Other liabilities and reserves				3,377,824.38	
				$106,533,824.38	
Less: Cash and investments			$49,554,901.28		
Other Assets			672,137.15	50,227,038.43	$56,306,785.95

SCHEDULE D

SUMMARIES OF OPERATIONS OF SPECIAL FUNDS AND BALANCES AT DECEMBER 31, 1956

1946 BOND SINKING FUND

Balance, December 31, 1955		$ 2,091,680.06
Received from:		
Bridge operations	$ 9,000.00	
Interest accrued on investments	73,356.09	
1946 Bond Retirement Fund	1,523,727.60	
General Reserve Fund	8,848.83	1,614,932.52
		$ 3,706,612.58
Disbursed to:		
Interest accrued 1946 Refunding Bonds		64,243.83
Balance, December 31, 1956		$ 3,642,368.75
Balance represented by:		
Cash	$ 1,592.68	
Investments	3,619,691.97	
Accrued interest receivable	23,714.10	
	$ 3,644,998.75	
Less: Accrued interest payable re: 1946 Refunding Bonds	2,630.00	$ 3,642,368.75

1946 BOND RETIREMENT FUND

Balance, December 31, 1955		$ 6,171,281.55
Received from:		
Interest accrued on investments		100,081.53
		$ 6,271,363.08
Disbursed to:		
Revenue Fund	$ 2,836,169.17	
1946 Bond Sinking Fund	1,523,727.60	4,359,896.77
Balance, December 31, 1956		$ 1,911,466.31
Balance represented by:		
Cash	$ 526.04	
Investments	1,904,657.98	
Accrued interest receivable	6,282.29	$ 1,911,466.31

REVENUE FUND

Balance, December 31, 1955		—0—
Received from:		
General Reserve Fund	$ 5,044,555.99	
1946 Bond Retirement Fund	2,836,169.17	$ 7,880,725.16
Disbursed to:		
Bond Service Fund	$ 3,327,287.52	
Bond Reserve Fund	1,717,268.47	
General Reserve Fund (by specific resolutions)	2,836,169.17	7,880,725.16
Balance, December 31, 1956		—0—

SCHEDULE D

SUMMARIES OF OPERATIONS OF SPECIAL FUNDS AND BALANCES AT DECEMBER 31, 1956—Continued

BOND SERVICE FUND

Balance, December 31, 1955		$ 461,997.88
Received from:		
Interest accrued on investments	$ 18,988.25	
Revenue Fund	3,327,287.52	3,346,275.77
		$ 3,808,273.65
Disbursed to:		
Interest accrued on 1953 First Series Revenue Bonds		3,391,250.00
Balance, December 31, 1956		$ 417,023.65
Balance represented by:		
Cash	$ 523,009.39	
Investments	35,000.00	
Accrued interest receivable	316.34	
	$ 558,325.73	
Less: Accrued interest payable re: 1953 First Series Revenue Bonds	141,302.08	$ 417,023.65

BOND RESERVE FUND

Balance, December 31, 1955		$ 8,105,987.72
Received from:		
Interest on investments	$ 246,396.62	
Revenue Fund	1,717,268.47	1,963,665.09
Balance, December 31, 1956		$10,069,652.81
Balance represented by:		
Cash	$ 136.02	
Investments	10,054,805.80	
Accrued interest receivable	14,710.99	$10,069,652.81

The Benjamin Franklin Bridge was opened July 1, 1926, physical construction having been begun January 6, 1922. The bridge widening from six to eight lanes was completed May 4, 1950.

Cost of bridge, exclusive of improvements made since 1926, was $37,078,894.97 expended as follows:

Construction contracts		$23,870,096.01
Real Estate Pennsylvania	$7,668,847.01	
Real Estate New Jersey	3,420,177.12	11,089,024.13
Engineering		1,650,266.53
Administration		469,508.30
Cost of Bridge		$37,078,894.97
Bridge improvements (including rail transit line and bridge widening) $1,957,230.71 of which was received as United States grants		18,271,437.21
		$55,350,332.18

CABLES

Number of cables	2	
Diameter of cables	30	inches
Number of wires in each cable	18,666	
Number of strands in each cable	61	
Number of wires in each strand	306	
Size of wire (No. 6) diameter	.192	inch
Total length of wire used	25,100	miles
Distance center to center of cables	89	feet
Weight of cables	6,780	tons
Weight of suspender ropes	422	tons
Diameter of suspender ropes	2¼	inches
Cable structural steel	610	tons

TOWERS

Depth Philadelphia tower pier below mean high water	58	feet, 7 inches
Depth Camden tower pier below mean high water	82	feet, 7 inches
Load on each tower from cables	35,000	tons
Field-driven rivets in each tower	145,000	

(Roadway expansion joints at each tower provide for 24 inches of motion due to temperature changes.)

ANCHORAGES

Each anchorage occupies	¾	acre
Anchorage foundation depths below mean high water:		
Philadelphia	63	feet, 7 inches
Camden	108	feet

PAVED AREA

Roadway	71,700	square yards
Footwalks	18,510	square yards

PRINCIPAL DIMENSIONS AND QUANTITIES

Length of bridge and approaches (portal to portal)	8,291	feet
Total length, including plazas	9,620	feet
Length of main span	1,750	feet
Width of bridge	128	feet, 6¾ inches
Width of roadway between curbs	77	feet, 10 inches
Height of towers above mean high water	382	feet, 8 inches
Clearance above mean high water in center	135	feet
Weight of main span per linear foot	26,000	pounds
Live load capacity per linear foot	12,000	pounds
Deepest foundation below mean high water	108	feet
Total weight of bridge (portal to portal)	763,491	tons

STRUCTURAL METALWORK

	Tons
Main towers	9,860
Suspended structure	18,565
Anchorages	7,300
Approaches	25,975
Structural steel for cables	610
Cables and suspenders	7,202
Structural steel in Philadelphia plaza	1,339
TOTAL STRUCTURAL METALWORK—ORIGINAL BRIDGE (1926)	70,851
Additional steel due to alterations	6,532
TOTAL STRUCTURAL METALWORK—AFTER ALTERATIONS (1951)	77,383

MASONRY

	Tons	
Main piers	121,146	
Anchorages	440,322	
Approaches	72,030	
Paving	37,548	
Track roadbed and ballast	15,062	686,108
TOTAL STRUCTURAL METALWORK AND MASONRY		763,491

SCHEDULE OF TOLL RATES

Passenger Automobile	$ .25
40-Trip Commutation Ticket Book	7.50

(Good for one month, including date of purchase, for passenger cars and trucks to and including 7,000 pounds gross weight. Not transferable. Detached tickets will not be accepted. Unused tickets are not redeemable.)

Passenger Automobile and Trailer	.40
Trucks:	
7,000 pounds gross weight	.25
7,001 to 19,000 pounds gross weight	.50
19,001 to 30,000 pounds gross weight	.75
30,001 to 36,000 pounds gross weight	1.00
36,001 to 40,000 pounds gross weight	1.50

(Trucks in excess of 40,000 pounds gross weight, when permitted, will be charged $1.50 for the first 40,000 pounds plus $ .25 per 2,000 pounds, or fraction thereof, of such gross weight in excess of 40,000 pounds.)

Tractor and Trailer (to 60,000 pounds gross weight):	
2 axles	1.00
3 axles	1.20
4 axles	1.60
5 axles	2.00
Trucktractor or Truck Chassis:	
7,000 pounds vehicle weight	.25
7,001 to 19,000 pounds vehicle weight	.50
19,001 to 30,000 pounds vehicle weight	.75

Special Permit: 60,001 pounds and upward—$10 permit fee required, plus $1.00 for the first 36,000 pounds and $ .25 for each 2,000 pounds, or fraction thereof, in excess of 36,000 pounds.

GROSS WEIGHT is the combined weight of the vehicle and its maximum allowable load. No vehicle with metal tires allowed on the bridge. No vehicle and load of a combined weight exceeding 80,000 pounds on solid tires or 150,000 pounds on pneumatic tires permitted to cross the bridge.

Passenger Bus	.50
Motorcycle	.15
Horse or horse-drawn vehicle	.30

EXPLOSIVES: Transportation of explosives on the Benjamin Franklin Bridge is PROHIBITED.

IMPROVING THE ADMINISTRATION OF THE BUREAU OF SALES AND USE TAX COMMONWEALTH OF PENNSYLVANIA

February 1957

McKINSEY & COMPANY, INC.
Management Consultants

Cafritz Building, 1625 I Street, NW., Washington 6, D. C.

February 28, 1957.

Honorable George Leader
State Capitol
Harrisburg, Pennsylvania

Dear Sir:

You asked us to study the operations of the Bureau of Sales and Use Tax to help improve the effectiveness of its administration. It was agreed that our chief aim should be to help develop and initiate steps that could be immediately acted upon, and we have reported progress to you weekly. The purpose of the accompanying report, therefore, is to elaborate upon our prior presentations and to bring them together in one document.

What We Said We Would Do

Our letter to you of December 21, 1956, outlined the services this Firm was to provide. In summary, we proposed to devote the first half of January to diagnosing the strengths and weaknesses of the Bureau's operations, and the second half to helping get needed improvements instituted promptly. It was understood that we would collaborate with Dr. Lyle Fitch and Mr. Vernon Eck-

strom, specialists in sales tax administration, made available through the Institute of Public Administration. They were to concentrate primarily on what ought to be done to improve the Sales Tax Act and its enforcement; we were to concentrate on developing a practical program detailing how the Bureau itself could most effectively direct its efforts and carry out its business.

We agreed to present this program to you for review at the end of January, but emphasized that it would not be the product of a complete analysis of the Bureau's operations. It was to be "an enumeration of those actions that a quick and limited survey demonstrates should be taken promptly." We also agreed to help in every way possible in putting this program into action.

What We Have Done

The first necessity was the review of each basic process being performed by the Bureau's Central Office—what was being done, how, and why. To check out the support these operations were giving the field and to fill in the picture, we next visited (in collaboration with the representatives of the Institute of Public Administration) all five Regional Offices and seven additional district offices, or a total of 10 of the 22 cities where field offices are operating.

After this initial survey, we presented our preliminary findings on problem areas, analyzed the adequacy of existing approaches to their solution, and suggested additional approaches. We next turned to substantiation of the problems identified and to determining what steps are required to overcome these problems. This involved primarily analysis of backlogs (or volumes of work on hand over and above normal working inventory). each of which was bottlenecking successive operations.

These backlogs have been analyzed in as precise detail as existing record-keeping makes possible. Specific steps have been recommended and taken to eliminate them as quickly as possible. Target dates have been fixed that are not only logical in their timing but reasonable within the resources that can be expected to be applied. These plans have not only been reported to you at weekly meetings wherein you have given needed supra-departmental orders; they have also been discussed daily within the Bureau where implementation has been worked out.

Nature of This Report

On February 1 we presented to you a program specifying forty-four steps that should be taken to improve the administration of the Sales and Use Tax. The Institute of Public Administration simultaneously suggested specific measures on 15 phases of the enforcement program, such as audit selection, statistical data, information on audit costs, audit review, work standards, etc. The two programs complemented each other fully and logically.

This report deals only with the findings, activities, and further recommendations of McKinsey & Company, Inc. It presents our findings and recommendations in three chapters. In the first chapter, we identify the Bureau's six major problems. In the second chapter, we "spell out" a program for making the improvements needed. In the third chapter, we describe the progress that has been made to date in instituting these improvements.

* * *

We said in the earlier cited letter that our success would depend upon the willing cooperation and desire for assistance of the Bureau's staff. This essential cooperation has been evident in increasing measure. Even more helpful, however, have been the interest and support of yourself and the Cabinet officers and staff members attending the weekly briefings in the Office of the Secretary of Administration. This support has contributed greatly to the progress being made.

Respectfully submitted,

McKINSEY & COMPANY, INC.

IMPROVING THE ADMINISTRATION OF THE BUREAU OF SALES AND USE TAX COMMONWEALTH OF PENNSYLVANIA

TABLE OF CONTENTS

	Page
INTRODUCTION	
WHAT WE FOUND	
Characteristics of Law that Handicap Administration	1- 2
Informing Taxpayers of Their Obligations	1- 3
Needed: More Efficient Plans and Procedures	1- 4
Insufficient Effort On Investigation and Auditing Programs	1- 6
Personnel Inadequacies	1- 7
Accomplishments and Failures of Management	1- 8
A PROGRAM FOR EARLY IMPROVEMENT	
Bring the Bureau's Tabulating Operations to a Current Status	2- 3
Establish a Central File of All Taxpayer Data	2- 5
Eliminate Backlogs of Unprocessed Correspondence and Returns in the Internal Audit Division	2- 7
Step Up the Volume of Field Investigations and Audits Being Accomplished	2- 8
Increase Flow of Information to Taxpayers	2-10
Improve Administrative Functioning of Bureau	2-11
PROGRESS TO DATE	
Progress in Improving Personnel Productivity	3- 2
Recruiting Needed Personnel	3- 2
Raising Productivity	3- 4
Provision of Essential Equipment and Supplies	3- 5
Improvement of Procedures and Processes	3- 6
Stepping Up Field Enforcement Program	3- 7
Summary	3-10

INTRODUCTION

The Selective Sales and Use Tax Law was enacted less than a year ago. Its complex provisions affected over 200,000 taxpayers in Pennsylvania. A large organization—the Bureau of Sales and Use Tax—had to be formed, almost overnight, to administer and collect the tax, to ensure maximum revenues to the State of Pennsylvania and assure its taxpayers of fair and equal treatment.

Inevitably, as with any large new enterprise faced with an unfamiliar task, the Bureau has encountered serious problems during its "shakedown" period. These problems fall into two general categories:

1. The Bureau's ability to collect the revenues contemplated by the law, and

2. The Bureau's ability to collect these revenues at an economical cost.

For the most part the existence of these problems has been recognized by the Governor, his staff, and the executives of the Bureau. This report is the outcome of such recognition.

The diagnosis and analysis of problems which follows is necessarily critical in nature. This should not obscure the steps which have been taken toward improvement and the willingness of the Bureau to correct the problems that have limited its effectiveness.

IMPROVING THE ADMINISTRATION OF THE BUREAU OF SALES AND USE TAX COMMONWEALTH OF PENNSYLVANIA

1—WHAT WE FOUND

As early as January 10 we identified six major problems that underlie deficiencies that had been noted in the operations of the Bureau of Sales and Use Tax. All six problems are inter-related and have contributed cumulatively to the failure of the Bureau to reach all taxpayers and efficiently to seek out all revenue due.

These six key problems are:

1. The distinctive characteristics of the law itself (Selective Sales and Use Tax Law, effective March 7, 1956) that make difficult general understanding by taxpayers and the establishment of efficient administration.

2. The need for the Bureau's staff effectively and persisitenly to inform all taxpayers of their obligations under this relatively new law.

3. The need for efficient, orderly, and economical plans and procedures, and trained staff to process and record taxpayers' returns.

4. The effort needed to be made by the Bureau's staff to seek out individuals and firms not complying with the law, to investigate discrepancies and apparent delinquencies, and to audit the records of an adequate sample of all taxpayers to ensure general compliance.

5. The prevalence of generally unsatisfactory standards of production among employees. This problem was especially apparent in the field offices; in some offices, there was a lack of discipline and in others there was the reported unwillingness of some employees to apply themselves to the work for which they were employed.

6. The inability of those individuals responsible for the direction of the Bureau, for the administration of the Selective Sales and Use Tax, (within the time available and in the fact of the handicaps that confronted them) effectively to lay out the work to be done, to recruit and train a competent staff, to obtain needed supplies promptly, and, hence, to get the Bureau's work done.

In subsequent paragraphs, the nature of each of these problems will be described.

(a) Characteristics of Law that Handicap Administration

The distinctive characteristics of Pennsylvania's Selective Sales and Use Tax were the subject of special study by representatives of the Institute of Public Administration. Their analyses were reviewed with officials of the Department of Revenue, with representatives of the Attorney General and the Governor. Their conclusions as to the efficiency of the law as a means of raising revenue were itemized at several weekly meetings with the appropriate officials. We comment here only on the several features that tend to complicate the Act and make its administration difficult.

1. The selective and exemptive features of the act, almost unique among the provisions of state sales tax laws, make difficult the informing of taxpayers as to their liabilities, the establishment of a firm master list of required registrants, and require the preparation and issuance of numerous and troublesome definitions and rulings.

2. The separation of the Sales and Use and Hotel Occupancy taxes requires that two distinct and overlapping sets of files and records be maintained, and that taxpayers submit separate reports and remittances.

3. The provision of Section 541 (d) that an effective rate, "based upon the ratio between the tax required to be collected and taxable sales," be determined by business classification adds a burdensome task of assembling and analyzing statistical data from taxpayers' returns. As yet this has not been possible. When accomplished, it is questionable whether the use of such effective rates (as prescribed by statute) will either make for greater equity in the treatment of taxpayers or facilitate administration other than as a guide to audit selection.

(b) Informing Taxpayers Of Their Obligations

This is a new law that went into effect only last March on the day after it was enacted. It was amended in May and the first official regulations interpreting it were not issued until July. They were by no means simple, clear, or comprehensive. This situation demanded two crash programs—an all-out effort to inform all potential taxpayers of their obligations under this new, unfamiliar, and complicated law; and the rapid building of an agency to administer the act fairly, yet firmly.

We found that during the months since enactment of the law, insufficient efforts had been made to acquaint taxpayers with the law and their liability. Several taxpayer bulletins were issued by the end of December 1956, but no schedule of future issuances had been planned. No substantial program of conferences with large industry groups had been planned to attain the mutual understanding of obligations required for voluntary compliance. No regulations had been issued covering public utilities and the regulation covering the printing industry was in a state of virtual suspense.

(c) Needed: More Efficient Plans and Procedures

If the 300 employees who are responsible for processing and recording taxpayers' returns in the central office of the Bureau of Sales and Use Tax are to perform these repetitive paper-work operations efficiently, they must be guided by carefully planned, detailed procedures. Such procedures had not existed. As a consequence there were, during January, three serious backlogs in these operations.

1. The machine accounting operations were seriously behind schedule. No adequate plans existed for bringing these operations to a current status. An insufficient number of trained operators were available: A tax collection system that uses machine accounting for the maintenance of taxpayers' returns can only be as accurate and current as are its machine accounting operations. In January 1957, the accumulation of unprocessed work in this Division (for example, the preparation of lists of delinquent taxpayers was on an average more than four months behind) was seriously handicapping the performance of other central office operations and the activities of field office personnel.

2. No central taxpayer record was available to show each transaction with and the status for each taxpayer: There did not exist a central set of records from which the full record of a taxpayer could be found in a single place. Thus it has been necessary to make up to twelve searches to locate a given taxpayer's registration, previous returns, and correspondence in order to process any inquiry or credit action for a taxpayer. The impracticality for making such burdensome searches has resulted in the accumulation of a large volume of unprocessed claims for credits due to taxpayers and the consequent dissatisfaction of many taxpayers.

The lack of this vital central taxpayer record must be attributed to a decision made last spring that has long since been reversed. This situation has materially handicapped operations throughout subsequent months, and in spite of efforts to correct it, will not be fully overcome for another few months.

3. "Irregular" tax returns (e.g., returns marked by some discrepancy, with differences between the attached check and the return, with correspondence attached, or returns made up on the taxpayers' worksheets rather than the prescribed return form) are diverted from the routine flow of work and remain unprocessed. As of January 10, roughly 40,000 returns (over 20 percent of a month's returns) were being sidetracked each month. There being insufficient employees to handle this accumulated workload in the Internal Audit Division, backlogs mounted to significant proportions by this date. This meant that a substantial amount of revenue in the checks attached to these returns was not made available to the state, that the central machine accounting operations could not complete their processes, and the correction of the discrepancy by communication with the taxpayers was, in many instances, delayed.

(d) Insufficient Effort On Investigation and Auditing Programs

The administration of most tax laws depends, in substantial part, upon the voluntary compliance of those citizens who are obligated to pay the tax. The handling of their returns submitted voluntarily in compliance with the law involves the routine processing of a large volume of returns, remittances, and records. But keeping the percentage of voluntary compliance high depends not alone upon the processing of returns voluntarily submitted, but importantly upon the effectiveness of the continual field investigating of taxpayers who are apparently delinquent, of those whose remittances or returns are incomplete or inaccurate, and the auditing of the records of a substantial sample of taxpayers to ensure full compliance with the law.

Such a program of investigation and auditing of tax should recover, in delinquent taxes, at least the total cost for both the routine processing and field enforcement functions.

Actually, the Bureau's field investigations and audits yielded in December, 1956, $154,000, and in November, $123,000.* In comparison, the monthly payroll for the field force of slightly over 400 (backed up by a central staff of 325), during these months exceeded $200,000. The inadequacy of results attained is apparent.

These programs should comprise more systematic selection (by type of business and by regions) of enforcement targets, on-the-job training, close supervision, and reporting against work standards. The three-day training course given October 17-19 was a good start but should have been followed up even more intensively than it has been; many of the men do not or cannot practically, report daily to their offices and so get no direct supervision or on-the-job training; floating squad auditors have not been used effectively to help overcome the deficiencies of the field force; there is no check on the accuracy of number of assignments reported as accomplished; and no published standards or definitions of a fair day's work have existed.

We found no adequate, systematic record of the total number of investigations being made or of the number being performed by each employee carried on the payroll to make these investigations.* Total audits made in the period August 1 to December 31 were 927, and they took 2760 man days to accomplish, or the full working time of an average of about 28 men** (while an average of over 200 were being paid as auditors).

(e) Personnel Inadequacies

Collecting a sales tax efficiently requires a large number of conscientious and well-supervised clerks, a few higher-grade in-office audit clerks, a larger number of investigators for "leg work," and a substantial number of qualified auditors. Regarding field personnel, the February 1 presentation of the Institute of Public Administration made precise recommendations as to the numbers of competent auditors and investigators required. Our last paragraphs indicate we found a high percentage of the field personnel inexperienced (to some extent natural in view of the newness of the sales tax to Pennsylvania), insufficiently trained to have even confidence much less competence, and to some extent unable to carry out their assignments because of extraneous interests and responsibilities.

In the Central Office, we found that the in-office audit clerks were probably sufficient in number but bogged down in detail and struggling with backlogs of accrued work that could have been accomplished by clerk-typists.

---

*Figures based on actual results of field audits and estimates of investigations. The figure for January, $284,000, showed significant improvement.

*An improved reporting system was instituted as of Feb. 1.

**Figures derived from the Bureau's report entitled, "Recapitulation 1956" (floating squad included).

It is not yet possible to tell the number of clerks that will ultimately be required for several reasons. First, there has been no reporting of time expended against routine work accomplished, so that no yardsticks have been developed for planning, scheduling, and staffing. Second, a large portion of the clerical staff's time, including overtime, is now being devoted to overcoming the drawbacks of the present filing system, replacing that system with an efficient one, and eliminating backlogs.

The backlogs that are now consuming so many clerical hours are partly the result of lack of typists (especially in the Internal Audit Division) but mainly from lack of clearly developed procedures. (The first draft of an Operating Procedures Manual was not issued until lat January.) For example, procedures for handling of the annual return had not been finalized and published by the end of January, i.e., even after these returns had begun to be filed. Unskilled clerks require precise written procedures, careful training, and effective supervision if each is to handle the volume of paper work that is involved.

(f) Accomplishments and Failures of Management

Those presently in charge of the Bureau of Sales and Use Tax—the Deputy Secretary of Revenue and the Acting Director of the Bureau—have been in charge for approximately one hundred and forty days. Throughout this period, four of the five top jobs have been filled on an "acting" basis. They inherited the difficult task of administering a new law with an inexperienced and untrained staff. And they encountered a succession of obstacles—administrative and political—in obtaining needed staff and facilities and in obtaining satisfactory performance from the total of more than 700 employes on the Bureau's payroll.

Despite the limited time and the obstacles encountered the Deputy Secretary and Acting Director had already recognized most of the problems we have noted. In July the then Assistant Director had attempted to establish a training program and had asked for assistance from the Bureau of Management Methods. As early as October 9, 1956, the Deputy Secretary of Revenue had prepared an "Initial Summary of Bureau of Sales and Use Tax Problems and Program," listing twenty-six problems, of varying importance, requiring attention. Significant progress had been made by January 15 on resolving approximately half of these problems. For example, the Bureau was moved into more adequate quarters at 18th Street at Brookwood Avenue. All field personnel were required to undertake training for their jobs, their performance was evaluated, and more than 30 incompetent employees were removed from the payroll. The first taxpayer bulletins were issued. A formal reassessment board was established. Measures were carried out to ensure that taxpayers' returns were mailed promptly to taxpayers in advance of the time they were to be filled out and returned.

These were important accomplishments but they were not sufficient to overcome the demoralization of personnel, the inefficiency of operations and the large accumulations of work that existed throughout January, 1957. While they had made substantial steps forward, those responsible for the Bureau had not established efficient procedures for the central office operations, had not instituted an adequate program for raising the productivity of field personnel, and did not have a specific program for raising the productivity of the whole staff, and for overcoming the accumulations of work on hand by specified times. Such a program was urgently needed. It was this task we concentrated upon. The program was developed by February 2. It is described in the following chapter.

2—A PROGRAM FOR EARLY IMPROVEMENT

The operations of the Bureau of Sales and Use Tax—in the central office and in typical regional and district offices—were analyzed during early January. Our findings were reviewed in successive discussions on January 10, 17, and 25, and February 1, with the Governor, the Secretary of Administration, the Secretary and other officials of the Department of Revenue and certain key members of their staffs. These discussions depicted the status of operations and the problems underlying the Bureau's ineffective administration. These have been noted. In this chapter, we outline a program consisting of thirty-five separate steps that must be taken if effective enforcement of the law is to be achieved, and additional revenue collected.*

Basically the collection of additional revenue due under the Selective Sales and Use Tax Law requires that the Bureau:

1. Identify more taxpayers: Not all firms and individuals who are liable are now listed by the Bureau as taxpayers and, hence, are not being notified when returns are due.

2. Investigate all firms and individuals who are listed as taxpayers but are not filing: Up to 20 percent of those now believed to be liable for this tax are not now filing returns; each has to be followed up by mail or personal visit.

3. Audit the large taxpayers (direct payment permittees and those taxpayers liable for the larger payments) to ensure that in these cases the law is clearly understood and being properly applied: now Bureau officials contend the law and regulations are being interpreted by those taxpayers to their own advantage.

4. Promptly audit returns being received to ensure that proper rate of tax is being paid and proper commission is being taken: preliminary audits have indicated a sufficient error in reporting to emphasize the significance of this step.

Before the Bureau can accomplish any one of these four activities it must "put its house in order." The specific improvements that still have to be made have been identified; first steps have been taken. The need that remains is to follow through on each of the following steps and get them done by the dates scheduled. This will require that responsibility for each step be squarely fixed.

*Of the forty-four steps outlined in our presentation of February 1, nine have already been substantially or completely accomplished.

1. Bring the Bureau's machine accounting operations to a current status
2. Complete estabishment of a central file recording all transactions with each individual taxpayer
3. Eliminate backlogs of unprocessed correspondence and returns in Internal Audit Division
4. Step-up volume of field investigations and audits
5. Increase flow of information to taxpayers
6. Improve administrative functioning of the Bureau.

The individual steps, summarized on subsequent pages under each of these headings, have been reviewed with operating officials of the Bureau. The essentiality of these steps and the reasonableness of the deadlines set are, we believe, agreed upon. The primary need during the next sixty to ninety days is a relentless and persistent follow-through to ensure that the steps are accomplished.

(a) Bring the Bureau's Tabulating Operations To a Current Status

The Bureau cannot now tell the Internal Audit Division, the field employes, or the Legal Division which taxpayers have filed or have not filed tax returns until its tabulating operations are current. In order that the Tabulating Division may fulfill its mission, returns must be promptly processed so that this Division can prepare with a minimum of clerical review all necessary cards and listings. It cannot effectively use the Univac to audit the returns being received until a considerable backlog of work is eliminated.

And until it has accurate and current data the Division cannot use the Univac for such essential statistical analysis as effective rates by business classification for guidance in audit selection by other divisions. To handle this priority project over and above its other key tasks, the Division will have to recruit and train at least six additional operators, an additional change order clerk, and a statistician. And if this Division is to produce the work central to practically all the operations of the Bureau, it is urgent that it review weekly its accomplishments against its schedule of tasks.

Required Steps and Target Dates

1. Complete listings of taxpayers who were delinquent in any month from March through September by matching returns filed against master deck — March 8
2. Collate all taxpayers returns, filed on punched cards, for months of July through December by taxpayer number for filing in central historical file — March 15
3. Process $2 credits for license fees as provided by Section 301(e) of the law as amended on May 24 — March 15
4. Devlop agreement amongst all officials concerned on procedures for machine preparation of selection of taxpayers whose returns are to be audited in the field. (Refinement should be continuous; initial agreement should be reached by March 15). — March 15
5. Prepare the Visible Index file for cross-referencing names of individuals with "doing business as" names of registrants — April 5
6. Prepare notices to all taxpayers who were delinquent in any month from October through December — April 19
7. Recruit and train additional and replacement operators — April 19
8. Prepare complete written procedure for processing, auditing, and reconciling the annual returns—and accomplish — June 28
9. Analyze by Univac all collections for effective rate by county, industry and size as a guide for audit of those whose returns fall short of allowable tolerances from the average. (This will be continuous after processing of annual returns is completed). — (Continuous)

The most urgent problem facing the Tabulating Division is simply applying its limited work force and scheduling its operations so as to obtain maximum utilization of the equipment and keep current on routine work while meeting the above target dates.

(b) Establish a Central File of All Taxpayer Data

All Internal Audit and Field Audit activities require for effective performance, a knowledge of the individual taxpayer's previous record and previous correspondence. Without such an accumlation of all data relative to each taxpayer the Bureau is dependent for its enforcement on the taxpayer's statements and records.

Required Steps and Target Dates

1. Complete the sorting of May and June (paper) taxpayer reports in numerical order for establishment of the central file — March 8
2. Have (punch card) tax returns for July through December interfiled by machine for establishment of the central file — March 15
3. Interfile, by hand, March-June (paper) taxpayer reports and correspondence numerically — March 22
4. Intersort taxpayer applications and monthly returns so that all data on any one taxpayer will be available in one folder — March 22
5. Have the Tabulating Division prepare new cards for the above visible index cross-reference file — April 5
6. Set up file folders for all taxpayers and attach the index tabs prepared by the Tabulating Division — April 9
7. Process the large accumulation of "change orders," i.e., taxpayers' notices of change of name, address, status, etc. — April 12
8. Process these change orders through the

visible index file cross-referencing individuals' names with "doing business as" names of registrants — April 19

9. Assemble all the above materials relative to individual taxpayers into their respective history folders, thus completing establishment of the central file — April 19

To sort and bring together in individual folders 10 months' materials on more than 200,000 registrants is a large routine clearical job. After the central file has been established the requirement for file clerks will diminish. But if the above target dates are to be met, even the present force will have to be augmented by temporary, borrowed, or overtime help. In addition, the entire force, because of the routine nature of the work, must be stimulated by such means as publicizing schedules to be met, work accomplished daily or weekly, and incentives for performance.

(c) Eliminate Backlogs of Unprocessed Correspondence and Returns in the Internal Audit Division

The normal flow of returns through the Bureau is from the Mail and Receiving Unit to the Receipts and Deposits Unit, where they are recorded and remittances deposited. From there they are routed to the Tabulating Division, whose operations are basic to all further processing. However, if a return is considered "irregular" (as described in the first chapter), it is sent direct from Mail and Receiving to the Internal Audit Division; it is not recorded, nor is any remittance deposited, nor can it be sent to Tabulating until this Division has processed it; and the Bureau's record on this taxpayer remains incomplete. Elimination of the large backlog of such suspended returns, (they have averaged nearly 25 percent of all returns) and keeping them to a minimum will speed all operations and permit the Internal Audit Division to do less routine and more in-office audit work.

Required Steps and Target Dates

1. Process replies to be received on approximately 5,000 communications that have been sent to taxpayers who filed "irregular" returns to bring the balance down to a working inventory of 500 per week — March 8

2. Process approximately 5,000 returns reporting no taxable sales to bring the balance down to a working inventory of about 500 a week — March 8

3. Prepare procedures for, assess penalty and interest, and communicate with taxpayers on 25,000-40,000 delinquent returns — March 15

4. Process approximately 2,000-3,000 unrecorded credit and refund cases after establishment of the central file makes it more expedient to trace them — August 15

It is also urgent that there be finalized (with the Attorney General) and issued for guidance of the staff the legal policy to be applied as to imposition of penalty and interest. Then it will be necessary to ensure availability of adequate procedures and personnel to process penalty and interest assessments and credit and refund cases. Again weekly evaluation of progress in accomplishing the above tasks is required to ensure meeting the schedule.

(d) Step Up the Volume of Field Investigations and Audits Being Accomplished

The primary steps in enforcing a sales tax particularly one that taxes only selected items, is the routine and continued audit or investigation of a large majority of all taxpayers within the statustory time limit to ensure their proper reporting and to stimulate voluntary compliance.

Required Steps and Target Dates

1. Restate the enforcement program as it is to be carried out by the field offices, i.e., what kinds of audits and investigations are to be made, what priorities should be attached to each kind — March 8

2. Develop an interpretative announcement to all personnel in the central office and the field as to the positions for which individuals will be recruited through civil service examination — March 8

3 Follow through on arrangements for contract with the Civil Service Commission, on advertising to encourage filing for examination, on provisional appointments in advance of having the examination, and on the replacement of misfits now on the staff who will not qualify by examination — Continuously to April 1

4. Establish performance standards for investigators and field auditors, on the basis of experience of competent men now in the field and in consultation with regional directors and district supervisors; and advise all field personnel, supervisors and men, that their perpormance will be evaluated against these standards. — March 15

Placing the technical and professional positions under Civil Service, Executive Board or Legislative, will not of itself result in increased volume or quality of field investigations and audits. Although this step should result in increased confidence and competence among the enforcement staff, still there must be provided to this staff informed direction and supervision holding them to standards of performance.

(e) Increase Flow of Information to Taxpayers

Voluntary compliance with tax laws requires general understanding by taxpayers of their obligations. Creation of such understanding of a relatively new and complicated law requires an intensive and positive effort to acquaint taxpayers with the law, prevailing regulations, and enforcement steps. Since last summer, regulations, several bulletins, and some 200 legal unit rulings have been issued, but a more sustained effort is required.

Required Steps and Target Dates

1. Identify all industry groups among which there is a known or suspected (a) lack of understanding of the law and regulations (b) tax evasion, or (c) avoidance — March 8
2. Otuline a program for the issuance of press releases, trade press announcements, and the advertisements to build taxpayer understanding of the tax throughout the period to the filing of the second quarterly return — March 8
3. Schedule series of meetings with industry groups identified in (1) above to acquaint these taxpayers with regulations and enforcement steps — March 8
4. Draft and issue additional taxpayer bulletins — March 8

An effective public relations program must be continuing and thought out well in advance with especial attention to the timeliness of all releases and due regard to the difficulty of arranging suitable dates for meetings with large industry groups.

(f) Improve Administrative Functioning of Bureau

The collection of a relatively complicated tax from over 200,000 taxpayers requires the efficient and coordinated efforts of hundreds of employees. The effective utilization of the more than 700 employes now employed (and such additional employees as may be needed) requires leadership, clearly defined organization, efficient layout of the work to be done, and adequate equipment and supplies.

Required Steps and Target Dates

1 Resolve existing organization questions as to (a) structure of Administrative Division, (b) location of Special Audit (Floating Squad) Staff, and (c) role of Management Audit Group — March 8
2. Inventory supplies on hand in Harrisburg and in field offices and install an improved system for maintaining adequate but economical inventories in field offices, and for maintaining economical stocks in the central supply room — March 8
3. Develop, as indicated on foregoing pages, additional needed procedures and standards for their performance so that work can be scheduled, e.g., for:
   (a) Processing "irregulars" to minimize delay in tabulating
   (b) Processing, reconciling, and auditing annual returns
   (c) Assessing penalties and interest
   (d) Better reporting and measuring field performance — March 1-April 12
4. Fill on a permanent basis the top executive positions now filled by "acting" incumbents. Concentration of effort on this difficult task is needed to provide the necessary sense of security in key officials and their staffs — March 29
5. Reassess, after procedures and standards have been established, the personnel required in each division of the central offices and in each field office. This reassessment should be undertaken after accumulated work in these divisions of the central office has been accomplished as scheduled, and after additional experience in field offices permits refinement of performance standards — April 12

The above steps are those of prime importance that must be taken to tighten up the administration of a Bureau still less than a year old and to raise its productivity. The nature of its mission and business are such as to require constant planning, realistic scheduling, and tight control.

The above six paragraphs constitute, we believe, a minimum program of action for near-term improvement. They do not comprise a long-term comprehensive administrative master plan, which should be developed by the Bureau directorate. Nor is this program, it is repeated, the product of a complete analysis of the Bureau's operations. Bureau management should continue to take advantage of all the help it can get from the Bureau of Management Methods to refine the procedures by which the efficiency of more than 300 employes in performing routine paper-work operations will be determined. The goal is to increase the tempo of progress outlined in the next chapter.

3—PROGRESS TO DATE

The preceding chapters have described:

1. The six major problems to be met in improving the administration of the Pennsylvania Sales and Use Tax: short-comings of the law, information to taxpayers, central office procedures, investigation and audit programming, adequacy of personnel, and Bureau direction; and

2. A program enumerating a succession of actions (i.e., schedule of target dates for specific accomplishment) for overcoming these problems.

This chapter will:

1. Summarize what has been done to recruit and train the personnel required to overcome each problem,

2. Indicate steps taken to provide essential material,

3. Outline what has been done to improve the procedures for processing essential business, and

4. Describe the most urgent problem remaining and the plans developed to meet this problem.

Some of the steps already taken to meet specific problems have been indicated in the previous chapters. On the following pages a fuller picture of the progress that has been made in bringing about the improvements needed in the Bureau's operations is presented.

PROGRESS IN IMPROVING PERSONNEL PRODUCTIVITY

The operations of the Bureau of Sales and Use Tax may

ultimately require for their effective performance a total of about 800 employees.* This total is made up of two distinguishable groups—the administrative and clerical employees in the central offices and the administrative, auditing, investigative, and clerical personnel in the field offices. Here we will describe the progress made in meeting the personnel needs of the central offices.

On page 3-7 we will outline what has been accomplished, and especially what remains to be done to build a competent field force. In each aspect of this problem the basic objective is to obtain greater production on the essential work tasks, not to increase the number of employees and, hence, the State's payroll.

(a) Recruiting Needed Personnel

The operations of the Tabulating Division require a balanced complement of machines and operators skilled in the use of these machines. In substantial measure the Division has the machines required. One specific item of equipment should be added: to interfile the individual taxpayer's returns for creation of the central file—a Cummings Carditioner (a machine that reconditions much-handled cards for more reliable processing through a high-speed electronic collator) would facilitate the Division's work. Otherwise the equipment of the Tabulating Division is ample. Indeed, the expensive Univac ($1,250 per month) is not as yet utilized sufficiently to warrant the rental cost being incurred.

Such a complement of machinery can be more economically utilized if operated on two shifts. Hence, a second shift has been established despite substantial difficulty in recruiting in Harrisburg sufficient qualified machine operators to operate one shift. To man this second shift, it was necessary to contract with the Sperry Rand Corporation to provide a night shift supervisor and three tabulating machine operators. (The operators had not yet been provided when this report was written.) The crew for the partial second shift now operating consists of five employees borrowed for overtime work from another Bureau.

Backlogs in the Internal Audit Division resulted primarily from lack of clerical personnel able to do simple typing, i.e., to handle correspondence, much of it by form letters, with taxpayers who had filed "irregular" returns. A typing pool that had once consisted of 15 typists had dwindled to three. When this need was pointed up, the Secretary of Revenue took prompt action to transfer 12 clerk-typists and two clerks from other Bureaus in his Department to the Bureau of Sales and Use Tax.

To solve the problem of creating the central file requires temporary augmentation of the clerical force. Early in January the Secretary of Revenue directed all Bureau Directors in his Department to lend any excess clerical personnel to the Bureau of Sales and Use Tax for as much time as they might be available. There has been little practical effect to date. In addition, the Director has found it difficult to get much in the way of sustained productive overtime work since he may allow his female employees to work no more than 2½ hours overtime on any weekday.

(b) Raising Productivity

To increase the productivity of employees, as well as the total number, two important steps have been taken. The first consists of the development of improved procedures to expedite the handling of taxpayers' returns by clerical employees. The second consists of those steps designed to improve employee discipline.

The Bureau of Management Methods in a memorandum of January 11, "Projects of Special Methods Study Group" listed 23 projects undertaken in support of and in collaboration with the Bureau. This work was primarily aimed toward improving individual procedures and processes and resulted in publication of an Operating Procedures Manual, discussed in a later section of this chapter. The last project proposed to be undertaken in the January 11 memorandum was: "Review and standardization of working hours."

As of February 11, however, after earlier directions to his personnel had proven insufficient, the Acting Bureau Director, with the backing of the Secretary of Administration, issued an order that all central office personnel would work from 8:30 to 5:00 and that these hours would be strictly enforced. If this order is followed up by setting even rough standards of a fair day's work for the more routine operations, as we have recommended, it can be expected the productivity of present personnel will be materially increased.

Harrisburg is a tight labor market in which the State government finds it difficult to compete. This difficulty is compounded by the typical delay involved in the routine of processing applications. In recognition of the acuteness of some of the Bureau's personnel problems, the Governor and the Secretary of Administration, early in January, ordered that the Bureau be given priority and that all its recommendations for appointments be hand-carried to expedite their approval. The results have been helpful but the approval of personnel actions remains a slow process, in most instances.

PROVISION OF ESSENTIAL EQUIPMENT AND SUPPLIES

Immediately after we first reported on January 10, the Director of the Bureau of Management Methods, as directed, undertook to expedite the procurement of all equipment and materials essential to meeting the target dates scheduled in Chapter 2. As mentioned earlier, the tabulating equpiment is adequate, little is needed by Internal Audit, and in the field the critical items are forms and technical materials.

The chief area of concern was that creation of the central file was impossible until receipt of certain equipment and supplies; bases, frames, and rotaries for the index file housing; specially designed file folders with envelopes to hold card returns; and continuous-form folder labels to be prepared by tabulator. From amongst the 25 requisitions outstanding on January 10, these were selected for especially expeditious handling, with the result that the central file should be available by the time processing of the annual returns has been completed.

We reported on January 10 that incidentally the ad-

* Rough comparisons with the numbers employed in the administration of sales taxes in other states indicate the reasonableness of this total staff requirement. Such comparisons, however, offer only approximate bases for appraising the total staffing of this Bureau.

ministration of the Bureau's supplies was handicapping efficient operations. A new supply system including inventory control, storage, and disposal procedures had already been designed by the Bureau staff, but as of February 15 had not as yet been installed. Levels of supply of forms to the field offices were, however, initiated as of the beginning of February.

IMPROVEMENT OF PROCEDURES AND PROCESSES

On page 3-2 of this chapter we pointed out that productivity can be increased not only by hiring more people but by improving the procedures they are following. Typical of this sort of procedural improvement made by the new Bureau management since October was the change from second to first class mailing of return cards to taxpayers. This reduced significantly the amount of time wasted by the central office and especially field investigators on tracing the addressees of returned forms, as well as reducing the number of remittances filed with work sheets rather than pre-punched cards.

The biggest single step forward in improving procedures was the publication of the "Operating Procedures Manual." This was released to Division Chiefs and put tentatively into effect by January 15. Although prepared by the Office of Administration, Bureau of Management Methods (whose services were specifically requested by the Acting Director last summer) it is, of course, the product of collaboration between the two bureaus. Relentless efforts to improve this document should alone serve to spur achievement of more refined procedures and more efficient processes.

Increasing the speed of improvement will require more systematic and timely collaboration amongst division chiefs to work out joint procedures. As an example of what can be thus accomplished a joint study by the Internal Audit and Administrative Division Chiefs recently reduced the number of returns being processed as "irregular" from nearly 25 percent to under 15 percent. Also essential to more effective over-all procedures is closer collaboration between Bureau management and the Regional Directors and District Supervisors, and in the next section we will point up the especial importance of building up the Management Audit Group as the most likely tool to accomplish this.

STEPPING UP FIELD ENFORCEMENT PROGRAM

The most urgent problem that now remains in improving the operations of the Bureau of Sales and Use Tax is that of increasing substantially the number of effective investigations and audits being made by field personnel. A significant increase in the number of investigations and audits was accomplished in January (field collections increased from around $154,000 in December to over $284,000). The level of production, however, remains substantially below what must be achieved.

The program described in chapter 2 of this report identifies six steps that are designed to step up the field enforcement program, i. e., to increase the number of effective investigations and audits accomplished. The large importance of this objective warrants our restatement here of those steps and further discussion of the objectives to be accomplished.

"Step 4: Follow through on arrangements for contract with Civil Service Commission, on advertising to encourage filing for examination, on provisional appointments, as possible, in advance of completion of register, and on the replacement of misfits now on staff who will not qualify by examination."

The Institute of Public Administration recommended substantially the same action in its presentation. Specifically, its representatives stated that—

> "3. It is therefore clear that the first order of business is to push the program of weeding out a large proportion of the existing audit and supervisory staff through a system of civil service examinations, put the remainder under civil service, and doing everything possible to recruit new qualified personnel."

After the Executive Board authorized the inclusion under the executive civil service of Accountants I—IV and Accountant Executives I and II jobs within the Department of Revenue, the State Civil Service Commission announced in February an examination for March 9. It is estimated that qualified personnel can be obtained for the Bureau through this examination by March 28. In fact, we were told on February 18 that 245 applications had already been received.

The importance of this step to the improvement of the Bureau's operations cannot, in our opinion, be underestimated. It is essential that those field employees who are not qualified to perform the essential investigating and auditing tasks be replaced by competent personnel. The recruitment of an adequate staff of individuals trained in accounting and auditing hopefully can be achieved through civil service recruitment. Such recruitment should ensure the qualifications of the individual and offer him greater security than employees of the Bureau now enjoy. It is essential that this civil service recruitment be completed as expeditiously as possible.

"Step 5: Increase staff of Special Audit (Floating Squad) Staff by careful selection of 6 to 10 additional qualified and available auditors to reside and work in those areas where volume of audits are to be made, but to be directly and wholly responsible to Chief of Special Audit Staff."

While the substantial staff in the field offices is being "leveled up" by training as well as the recruitment under civil service of additional qualified people, a considerable volume of important audits must be made. These include particularly the audits of direct payment permittees, of out-of-state enterprises obligated under the sales and use tax law, and those taxpayers whose returns reveal discrepancies that should be promptly investigated. To accomplish these audits currently and thus to ensure an effective enforcement program as early as possible, we have recommended that the special audit staff be expanded as rapidly as possible. We have proposd that this be done by recruiting a limited number of qualified auditors from the field offices. This has the disadvantage of depleting an already inadequate staff of auditors in the field offices. It has the advantage of focusing the energies of the best-qualified auditors on the most important audits to be completed.

As yet, this step has not been taken. During successive weeks, we recommend that a further canvass be made of the personnel now assigned to field offices and their availability for assignment to the Special Audit Staff.

"Step 6: Establish proposed Management Audit to review for the information of the Director and Deputy Secretary (weekly) in Philadelphia and Pittsburgh district offices, and at least monthly in other offices:

(a) Performance, quantity and quality, of supervisors. auditors, and investigators
(b) Deficiencies noted by Chief Auditor in his review of audits and investigations turned in
(c) Compliance with laws, regulations, rulings, and established procedures
(d) Adequacy of supplies and other administrative arrangements
(e) Adequacy of training being carried on."

This specific step is probably the most essential effort to be made by the Bureau during the next 60 days. The field offices, as have been pointed out, include more than 400 individuals whose productivity has been far below an acceptable standard. To increase the effectiveness of this large number of field employees, it has been agreed that the Management Audit Group would be established to undertake a series of intensive appraisals of every field office.

The making of that program effective requires that the Bureau assign three competent men from its headquarters staff to devote full time to this activity for the period from February 25 to April 6. These men, it has been agreed, in collaboration with consultants from the staff of McKinsey & Company, Inc., will visit every field office and, following a carefully designed plan for appraisal, assist the supervisors of each office in improving the level of production being achieved. An announcement of this program has been prepared to advise the regional directors and district supervisors of the activity of the Management Audit Group and its objectives.

SUMMARY

Progress has been made in improving the operations of the Bureau of Sales and Use Tax. During the period from October 1, 1956, to January 1, 1957, the Deputy Secretary of Revenue and the Acting Bureau Director made notable steps toward determining what was wrong and what needed doing. In addition, they instituted a number of needed improvements.

Since January 1, as this chapter has outlined, some further progress has been made. In substantial measure, the operations of the central office of the Bureau have been brought up to a point approaching operating efficiency. Much remains to be done to overcome the accumulation of work in these operations that had piled up prior to January 1, but the level of performance has been raised to a reasonable standard.

The next major improvement that must be effected if the Bureau is to administer this tax equitably and efficiently is the improvement of performance in the field offices. This task will require the unrelenting and vigorous insistence by the Governor and the Secretary of Revenue that the three critical steps enumerated on page 3-7 be accomplished as expeditiously as possible.

GENERAL COMMUNICATIONS

Philadelphia, June 1, 1956

To the Honorable Judges of the Court of Oyer and Terminer and Quarter Sessions of the Peace for the City and County of Philadelphia, Pennsylvania

During the May, 1955 Grand Inquest, we acted upon the following indictments:

True 1446 Ignored 58 Total 1504

Institutions Visited

I. HOLMESBURG PRISON—Visited on May 15, 1956

Warden: Fred Krueger Captain: James Stott

Census:	White Male ..	343
	Negro Male ..	1177
	Total	1520

In general, this penal institution is in good condition and well kept. Considering the overcrowded conditions (720 cells for 1520 inmates), Warden Fred Krueger, Captain Stott and their staff are doing an excellent job.

The set-up in this prison is very good with regard to teaching the inmates a trade which will afford them a livelihood after their release. Schooling is also available to the men and any inmate who is sincere about furthering his education can do so in Holmesburg Prison.

The cells, work shops, kitchen and eating quarters are exceptionally clean and well kept. The inmates themselves do most of the work. The guards and outside professional men are doing a fine job working with the inmates and directing them.

While the hospital appears adequate, clean and well kept, we understand there is a need for more trained medical help.

Good, spacious recreational facilities are available and all types of sports are participated in by those who wish to play.

Recommendations

A. Inmates' terms in this prison range from two to ninety years. The maximum sentence should be reduced to twenty years. This would better utilize the fine training program set up there and would also alleviate the over-crowded conditions.

B. New chapel is needed. We understand and recommend that work on this project should be started as soon as possible.

C. More guards are sorely needed for security reasons. Every effort should be made to remedy this important and urgent need.

D. There are not enough jobs to keep all the inmates busy. The average inmate works only four hours per day. The overcrowded conditions are partly responsible for this condition. Outside work should be brought in to keep the inmates occupied longer. This should keep them more content.

E. Exhaust fans are needed in the bakery, laundry and kitchen where it is warm and humid with odors and vapors.

F. The long-termers should be sent to the Eastern State Penitentiary.

II. HOUSE OF CORRECTION—Visited on May 15, 1956

Warden: Charles G. Day

Census·	White	Negro	Total
Male	299	236	535
Female	28	76	104
	327	312	639

The thing that impressed us most on our visit to the House of Correction was the spacious work shop with its modern power equipment. A large and varied amount of work is to be done here when they set up the remaining machines.

Most of our visit was in the female division. Their recreation room provides adequate facilities for the inmates' recreation. The dining area is also adequate and cheerful.

There is good opportunity at the House of Correction for the female inmates there to learn a trade.

Overall cleanliness was good with one exception (See "G" under recommendations.)

The average term of inmates is from three months to two years. This seems satisfactory.

Recommendations

A. The shower, sewing and laundry rooms need more ventilation e.g. exhaust fans.

B. The cement floor in the kitchen is broken and stained and detracts from it's otherwise clean and sanitary appearance.

C. The wooden benches in each shower stall in the female division should be replaced as they are in very bad condition. They could be made in the spacious work shop.

D. A small stand or shelf should be provided in the women's cells to hold their personal belongings. As it is now, anything they have is put on the floor.

E. More maintenance personnel and guards are needed. They should be provided.

F. Overcrowded conditions. We need another penal institution in this city.

G. The roof of the ventilation hood, which is located over the large cooking kettles, is dirty and dusty looking. Steps should be taken to remedy this condition.

H. Puddles of water were visible on the kitchen and mess hall floors. Better drainage should be provided.

I. The young inmates should be separated from the older ones as much as possible.

J. The chef needs some professional help, rather than all inmates.

K. A new chapel and field house for sporting events should be built at the end of a short wing of the prison. This is needed and we suggest that work be started on it as soon as possible.

Could P.A.L. work and play with the male and female inmates? This would further impress on them the fact that the police are trying to help in every way.

L. The occupational therapy was operating well. We recommend the articles made there should be placed where they can be seen by visitors with price tags attached on them.

M. Employing more maintenance personnel in Riverview will tend to relieve a strain on the House of Correction Maintenance personnel.

III RIVERVIEW—Visited May 15, 1956

Evan E. Stauffer—Assistant Superintendent

Census: Male 560 Female 420 Total 980

Assistant Superintendent Stauffer greeted us at Riverview, and showed us through these buildings.

Recommendations

A. The greatest need in this institution is for additional physical therapy, also other help, as it is undermanned. To do this, living quarters should be furnished for the staff and the budget should be increased to pay higher salaries.

B. Personnel asked for in this institution should be on a Rush Order.

C. Steam tables are needed in the cafeteria.

D. Donations of books and reading matter are also needed.

E. We recommend that the University of Pennsylvania be asked for students to help in physical therapy.

This institution is well managed. The old folks seem very content, well fed and well housed. The dining area, and kitchen facilities are excellent. The meals are well balanced. They have very nice hobby shops and a good library. They also have a very nice Dual Chapel. The entertainment is satisfactory. We were very interested in Mr. Stauffer's plans for the future, as he is very interested in and dedicated to his work. The Personnel staff are certainly doing a grand job.

MOYAMENSING PRISON—Visited on May 22, 1956

Warden: Richard W. Dennison

Census	White Males	White Females	Negro Males	Negro Females	Total
	201	9	556	78	844

This prison appears to have the greatest problems of any institutions we visited. The severe overcrowding, with three men per cell in many instances, creates a grave security threat. Also it is detrimental to the morale of the inmates, particularly those who are trying to rehabilitate themselves, to be forced to share a cell with hardened criminals who are not first offenders. Since there is no room for expansion at the present location, little can be done at this time to remedy the overcrowded condition.

While the buildings are old, they are well kept and

extensive painting is being done in many areas to keep them clean and light. Cells, dining areas, kitchens and the bakery are clean and orderly. The infirmary has recently been painted and looks fresh, cheerful and sanitary.

Warden Dennison has a well-rounded background in prison work and is to be commended on his able handling of a very difficult situation and on his understanding of human needs as well as security requirements.

RECOMMENDATIONS

A. 24 more guards should be added immediately to the present staff which is dangerously small.

B. Wall towers should be built and manned by guards for greater security.

C. A new dental chair should be installed in the men's infirmary.

D. 2 more day nurses should be added to the present staff as well as a night nurse.

E. An additional matron is needed in the women's division.

PHILADELPHIA GENERAL HOSPITAL

Visited May 22, 1956.

Census 1547

Executive Director F. Lloyd Mussells, M.D.

Dr. Mussells greeted us at P.G.H. where he gave us a rundown on the conditions. We were then taken on a tour by Dr. Heller, our recommendations and observations are as follows:

RECOMMENDATIONS

A. Need for a new hospital for mental patients. This work should be started as soon as possible.

B. Certain sections of this hospital needs painting and plastering.

PHILADELPHIA GENERAL HOSPITAL

The city of Philadelphia should be proud of this institution. This hospital has spacious buildings, and modern scientific equipment. The facilities in the main kitchen and diet kitchen are excellent—the wards are very clean and orderly.

We wish to thank Dr. Mussells and Mr. Heller for their patience and courtesy to us.

GENERAL RECOMMENDATION

A. We strongly recommend the building of additional penal institutions as soon as possible. This is urgently needed to eliminate the over-crowding now prevalent in our existing prisions and also permit the separation of tried from untried prisoners, as well as the separation of young first offenders from those who have been sentenced repeatedly for participation in crime.

B. Some of the over-crowding of our penal institutions and the work load of our courts could be reduced by a concerted effort to prevent crime at its source. We recommend a larger narcotics division to prevent illegal drugs from entering the city.

C. We have noticed that most of the crimes brought before us have occurred in the most densely populated areas of the city. We believe that when these blighted slum areas, mostly rented tenaments, can be replaced with new housing developments, the better living conditions they would provide would reduce the amount of crime.

D. A law should be enacted to regulate the sale of exempt narcotic drugs which now can be purchased in drug stores by anyone signing a name and address and yet which, when taken in excess, are habit-forming. We recommend lowering the narcotic percentage permitted at the present time in these drugs.

E. We would like to thank Assistant District Attorney Armand Della Porta, together with his entire staff for presenting each case in a clear and concise manner. Also, Court Officers D. Benjamin Bocchicchio and Michael Janusiak for their courteous and kind help.

F. We recommend a raise in pay for all the court officers in lieu of the lack of overtime pay for the extra hours which they work.

G. We would like to commend the District Attorney's Office as a whole and our entire police and park guard forces and particularly Mr. Thomas McDermott, Chief of County Detectives and the narcotics squad for their outstanding work. We also would like to cite in particular Officers Reeder and Moore for the graphic yet brief testimony they gave on many accident cases.

H. We think it would be helpful if everyone receiving a Grand Jury summons were to receive at the same time a short explanation of jury duty and the time it requires. All jurors, whether housewives or people engaged in industry or business must make adjustments in their daily schedules for the period of duty. If they knew in advance the length of the service and the approximate number of hours involved each day, they would be better able to make the necessary arrangements.

I. Business firms whose full-time employees are serving as jurors should pay their regular wages less the jury pay. This would prevent many capable prospective jurors from asking to be excused from jury duty because of financial loss involved.

J. We recommend that because of the added duties of the Foreman and Secretary their compensation should be increased as follows:

Foreman 25% Secretary 15%

K. We would recommend that every grand jury be taken on a tour of City Hall to learn more about the actual workings of the City's business.

L. The members of the May Grand Jury wish to express our gratitude for being given the opportunity to serve Philadelphia in this capacity. We have learned a great deal about our city, its laws, its institutions and its people. We realize the importance and seriousness of the work in which we have been engaged and trust that we have performed it conscientiously and efficiently.

Respectfully submitted,

Thomas J. Black—Foreman
Dorothy T. Hayes—Secretary

DISTRICT ATTORNEY'S OFFICE
Room 666 City Hall
Philadelphia 7, Pa.

VICTOR H. BLANC
District Attorney

June 29, 1956.

Harold Watkins
Secretary of the Senate
Capitol Building
Harrisburg, Pa.

Dear Sir:

Enclosed please find two copies of the Philadelphia June Grand Jury's final presentment. Its comprehensiveness, scope and quality merit state-wide recognition. I feel that at least parts of it are of special interest to you and the entire membership of the Senate.

Very truly yours,

ARMAND DELLA PORTA
Assistant District Attorney
Chief, Indictment Division

Enclosures
ADP/fb

To the Honorable Judges of the Court of Oyer and Terminer and Quarter Sessions of the Peace, for the City and County of Philadelphia, Pennsylvania.

The Grand Inquest of the Commonwealth of Pennsylvania, for the City and County of Philadelphia, June Sessions, 1956, respectfully submit the following report as the result of their term in office.

A. BILLS OF INDICTMENT

Number of Bills found true	1333
Number of Bills found ignored	76
Number of Bills processed	1409
Number of processing days	19

B. REPORT OF VISITS TO COUNTY INSTITUTIONS

1. HOLMESBURG PRISON

Census: 1493 Inmates

Arriving at Holmesburg Prison Tuesday, June 12, 1956, we were met by a Captain and also a Lt. of Guards who escorted us on our tour of the prison. The uniform arrangement of the cells makes it possible to observe each Cell Block from one point. We visited the Medical Center, Mess Hall, tailor, knit, weaving and carpenter shops. Holmesburg also has in operation an academic and vocational school system with teachers from the Board of Education. These various operations and shops are very helpful in the rehabilitation of prisoners.

Recommendations

1. Holmesburg is very much in need of a Building for a Chapel and a recreation room.

2. More guards are needed for security reasons.

3. Exhaust fans were needed in the Bakery, Kitchen, and Laundry, where it very hot and overcrowded.

4. This prison is overcrowded. Philadelphia is very much in need of a new County Prison.

2. HOUSE OF CORRECTION Warden—Day

Census: Male 535 Female 104

We made our tour of The House of Correction on June 12, 1956. On our visit to this institution we found many interesting things which impressed the Jury, most were the spacious work shops with its modern power equipment. This institution has plans in progress for doing work for outside concerns and also the City of Philadelphia. Except for a few recommendations (which are listed below) the female division is in very good order. The kitchen, recreation room and mess hall are very clean.

Recommendations

1. A small stand or shelf should be provided in the women's cells to hold their belongings; as it is now, everything they have must be placed on the floor.

2. The shower, sewing and laundry rooms are in need of more ventilation. The kitchen in the male section is very bad and should be repaired.

3. More maintenance workers and guards are needed at the institution and should be acquired as soon as possible.

3. RIVERVIEW Mr. Groller, Superintendent

Census: Male 560 Female 420—Total 980

Riverview was visited on June 12, 1956. This institution is well managed. Everyone seems to be very happy under the care of Mr. Groller. Here they have very nice hobby shops and a good library. It was amazing to see how dexterious these old people are with their hands. Another thing that we were glad to see was the new one room cottages for the man and wife couples, that they will not have to be separated in their old age. Mr. Groller and his staff are doing a fine job.

Recommendations

1. The greatest need at Riverview is for trained physical therapists.

2. Steam tables are needed for the cafeteria.

4. MOYAMENSING PRISON

We arrived at the prison on Tuesday, June 19, 1956. There we were met by Warden Richard W. Dennison. After a short lecture on prison procedure we were conducted on our tour by Warden Dennison, assisted by Lt. Clark. The accommodations of this prison are small and quite inadequate to handle the number of inmates imprisoned here. We found guards needed for other important duties serving as cooks and bakers. There are also 10 guards needed for desk work alone which they do not have. Warden Dennison is doing an excellent job under what we consider very adverse conditions.

Recommendations

1. Appropriation of new uniforms for bakery help, preferrably white.

2. Consideration of a program for salary pay scale in-

creases to interest qualified personnel in applying for positions of guards. They are greatly needed.

3. Immediate removal of Mental patients from this Institution.

4. Bulding a larger prison to relieve the over-crowded conditions at our Penal Institutions.

5. PHILADELPHIA GENERAL HOSPITAL

The visit to the Philadelphia General Hospital concluded our visits to County Institutions. The visit was on June 19, 1956. When we arrived we were met by Dr. Fetters, Chief of Staff. The first thing we did was to lunch in their beautiful, new and modern cafeteria. The food was excellent. After lunch we started our tour. We were amazed and pleased at the vast improvements that have taken place in recent years. Here at P. G. H., they have come a long way in solving the problem of over-crowding in certain wards, such as the Tuberculosis and Psychiatric Wards. One of the newest additions is the Alcoholic Division, which does an excellent job in the rehabilitation of alcoholics to normal living. Dr. Fetters took great pride in showing us the hospital's new rehabilitation center. The training the handicapped receive here tends to make most of them self-supporting upon their release.

Recommendations

1. More appropriations of funds for the up-keep of the hospital.

2. More trained nurses are needed for night work. It is the opinion of Dr. Fetters and the Grand Jury that if the hospital were able to meet the night differential pay requirements this problem could be alleviated. Funds should be appropriated for this need immediately.

CONCLUSIONS AND SUMMARIZATIONS

A. Sex offenders are the most despicable of criminals and should be treated as such. We highly recommend that known offenders who continue to inflict such outrages upon innocent citizens be dealt with severely by the Courts. These people are not fit to mingle with honest citizens.

B. It is regrettable that it is a common practice to relegate the mentally ill to Penal Institutions because they are not equipped to handle Psychiatric patients. The problems of the mentally ill are unique in themselves and cannot be coped with by persons not trained in this highly technical field. It is the opinion of this Grand Jury that the confinement to prisons only tends to aggravate their conditions and make curing them more difficult when professional care is offered them. We sincerely hope the members of the Legislature heed our recommendations for improvements in our present facilities or the building of a new one to house the mental patients. Not only are new hospitals needed but a greater program to provide trained nurses, doctors, and technicians to treat these patients.

C. This Grand Jury would like to commend the court officers assigned to this session of the Grand Jury for their untiring efforts to help us whenever we needed it. They were kind and considerate. We were surprised to learn that there is no overtime pay for these tireless servants of the people. Therefore, we recommend a salary raise. We wish to thank personally Mr. Ben Bocchicchia and Mr. Mike Januisak. The Police and Park Guards are to be commended on the wonderful job they are doing. The program launched against Drunken Drivers has been fruitful. Officers Reeder and Moore are also to be congratulated on a fine job. The tracking down and apprehension of narcotic offenders is on the uprise. The narcotic squad is doing a wonderful job. These hard working protectors of our citizens deserve our highest praise.

D. We, the members of this Grand Jury, were afforded the privilege of visiting some of the court rooms during sessions. Vast improvements are needed. The acoustics are bad in most of these rooms. There is no space provided for conferences of Lawyers and clients. There is a dire need of air conditioning in the Court Rooms and also the Grand Juror's Room during the summer months, and the lighting could be improved upon. Philadelphia, as the Nation's third largest city, should have a new modern court house. We sincerely hope earnest consideration will be given to this suggestion.

E. In conclusion, our deepest and sincerest appreciation and thanks go to Assistant District Attorney Armand Della Porta and his wonderful staff. They work long and strenuous hours on the Bills of Indictment so that when they are presented to the Grand Jury they are clear and concise. Mr. Della Porta's knowledge of law, its enforcements and penalties that should be inflicted upon wrong doers is boundless. It is gratifying to know that a man of his caliber holds this important position. He deserves all the cooperation and assistance that we can give to him. Similarly, our sincerest appreciation goes to Assistant District Attorney John R. Sutton of the Indictment Office.

F. Having acted for a full month as the conscience of our great city, and having become fully aware of the complete range of criminal activity that scourge our community, particularly the problems of juvenile delinquency, we, members of this Grand Jury, have become fully convinced that steps should be taken to curb criminality at its sources. We believe that immoral and obscene movies, comic strips and similar trashy publications are one of the main sources of criminal activity. The similarity of criminal plans and operations in cases that we have considered daily to scenes of many a motion picture, is striking. For this reason we believe that since our State Censorship of movies is no longer in operation, City Council should immediately enact a movie censorship ordinance for the protection of our great city and particularly of our youth.

Last, but not least, we wish to commend our Foreman (Miss S. Doherty) and Secretary (Mrs. H. Miller) for a job well done and the cooperation of all the members of the June Grand Jury.

FOREMAN Sylvia M. Doherty, 4426 Fleming St.

SECRETARY Helen Miller, 3128 N. Napa St.

TO THE HONORABLE JUDGES OF THE COURT OF OYER AND TERMINER

THE GRAND INQUEST OF THE COMMONWEALTH OF PENNSYLVANIA, FOR THE CITY AND COUNTY OF PHILADELPHIA, JULY SESSIONS, 1956

A. BILLS OF INDICTMENT:

Number of Bills of Indictment Found true	1576
Number of Bills of Indictment found ignored	59
Number of Bills of Indictment processed	1635
Number of Processing Days	23

B. REPORT ON VISITS TO COUNTY INSTITUTIONS:

HOLMESBURG PRISON

Census: 1146

We were welcomed to Holmesburg Prison by Warden Fred Krueger and Captain James Stott who conducted us through the medical clinic and ward; the printing, baking, weaving, shoe and carpentry shops; the laundry, the school building and the hospital.

Observing these activities, studying the prisoners so engaged in this typical day at Holmesburg, we were highly gratified at the organized shop schedule, the first-class equipment and professional supervisors. We decidedly applaud the system of classification which attempts to place every prisoner in a work suited to his temperament and capabilities. We were very satisfied to note the caliber of medical care given the prisoners. And certainly, we could find no criticism with the quality of food served, this last an important revelation to us recollecting the comparatively recent "food riots" in prisons across the country.

We also commend the coordination of trades with study, i.e., the appointment by the Board of Education of two teachers to Holmesburg, and the prison's affiliation with the International School of Correspondence.

We are gratified to learn that the inadequate chapel has been demolished and will shortly be replaced by the long-needed expansion combining a chapel and recreation hall to hold 1000 men.

RECOMMENDATIONS

Though justly described—from its physical construction—as a "maximum security prison," Holmesburg is greatly overcrowded. It is also so under-staffed in its guard complement that the force now operating is overtaxed. We can only believe that this combination of overcrowded prisoners and overworked guards so strains security provisions as to reduce them significantly from the "maximum." As an example, the total population of Holmesburg on the date this Grand Jury visited was 1446. We were advised that, ideally Holmesburg holds 750, but that it could operate reasonably well with a total between 1050 and 1100. The comparison between this "reasonable" total and the prevailing total offers its own conclusion. Holmesburg is operating under an "unreasonable" burden. We strongly recommend the additional 16 guards needed to raise the complement to required strength.

In the matter of overcrowding, we can only underscore the recommendation of the June Grand Inquest that "Philadelphia is very much in need of a new County Prison." This need became progressively evident to the July Grand Inquest by visits which followed Holmesburg, visits to the House of Correction and Moyamensing Prison. We believe this need to be in a critical, even an emergency state.

Exhaust fans should be installed in the kitchen.

Trucks observed leaving Holmesburg loaded with bread for delivery to other institutions were entirely uncovered, lacking even covering over loading end of truck.

We wholly congratulate Warden Krueger and his staff for the results they were achieving despite handicaps of overcrowdedness and undermanned force.

HOUSE OF CORRECTION

Census: 713

As with Holmesburg, our enthusiastic commendation for the accomplishments of the administration at the House of Correction. Again, the system of classification according to work capabilities is apparent throughout the shops, the quality of food and medical care is beyond criticism.

We wish to comment particularly on the service rendered municipal departments by the productivity of the inmates. We refer, for instance, to the articles manufactured and finished in the machine and paint shops. Here we saw reading tables for the Philadelphia Free Library, and street barricades for the Department of Public Works. In the laundry we observed young women shrinking cloth for use in police and firemen's uniforms. We were deeply impressed by the wholly devotional tone of the new chapel. We think such a singular consideration (as this beautiful chapel exemplified) of the spiritual aspects of prisoner-rehabilitation is an imperative part of prison programs.

We wish to express our gratitude to Superintendent of Prisons, Edward J. Hendrick for his instructive address to us and to commend him for his humane and penetrating approach to prison problems. Our earnest thanks, too, and equally our commendations to Warden Charles Day, Deputy Warden Alfred Brought, Social Service Supervisor Theodore Chapman for their genuine desire to give constructive help to their charges. Congratulations to Superintendent of Matrons Doris Whitney and her assistants for their understanding work with the women inmates.

RECOMMENDATIONS

Emphatically, re-distribution of prisoners is indicated to prevent juvenile offenders from contact with older inmates. Particularly is this true in the far more populous Male Division. We understand that juveniles are quartered in separate living sections. But we observed very young boys working closely with considerably older men. And although seated at their own tables in the Mess Hall, they assemble at the same time to eat with the older elements. Such commingling, even under supervision, dangerously exposes young delinquents to experienced law-breakers. Is this policy consistent even with the terminology "House of Correction?" Could not these boys be committed directly to institutions such as Glen Mills, White Hill, Catholic Reformatory, et cetera, where the rehabilitation program is planned about their age group?

We believe some system of payment be instituted for inmates, both male and female, in the House of Correction. We refer to our observations of prisoners in shops and laundry who were rendering constructive service to municipal departments. Could such services not be extended? All inmates then would be rendering a service for which they could realistically be compensated. Surely such compensation would increase the self-esteem of inmates. It would also give them some security upon release. We understand that, except for the generosity of the custodians, many would be released penniless! There has been a suggestion of 10 cents a day for inmates. We firmly indorse this suggestion.

A psychologist is required on the examining board.

RIVERVIEW

Census: 985

We have only boundless praise for the accomplishments of the administrative personnel for the elderly guests under their care. The program of occupational and recreational activities is adapted with the wisdom of those with a sensitive grasp of geriatric problems. It was a heartening experience for this Grand Jury to learn that such trained, mature-minded personnel has replaced the deplorably inadequate, untrained personnel of so few years ago. While our guides enlightened us throughout our tour, we learned as much of Riverview's accomplishments from the residents themselves. Their attitudes were almost unfailingly contented, cheerful. These observations spoke volumes, not only about the effectiveness of their care, but assuredly, the affectionate expression of that care.

Our congratulations to Superintendent Raymond J. Groller, Assistant Superintendent Evan Stauffer, Social Service Supervisor James Whitsit, and Female Supervisor Lydia Hamilton. They are performing an exceptional work.

RECOMMENDATIONS

There is pressing need for a physical therapist and additional service help, specifically hospital aids.

EASTERN STATE PENITENTIARY

Grand Jurors were unanimous in their reactions to the positive picture presented by their visit to Eastern State Penitentiary. Quality of food, shop equipment, medical facilities were excellent. We remarked the contrast of attitudes among this State-administered institution and our municipal prisons. There appeared a distinct ease of attitude, a freedom of action in all the shops we visited. While we know that the prisoners were under complete surveillance at all times, we think their relaxed attitude is of positive value in their rehabilitation. We firmly believe that this has been achieved at Eastern State Penitentiary because of lack of overcrowded conditions and adequate custodial complement. Both these factors are the foremost problems of our city-administered prisons. Holmesburg and Moyamensing are overcrowded and understaffed to the point of risk.

Warden Stowell merits high praise for his administration.

PHILADELPHIA GENERAL HOSPITAL

We Grand Jurors are indebted to Dr. F. Lloyd Mussells for his thorough explanation of present programs and future plans for the hospital.

While much of the physical plant of Philadelphia General is antiquated, we appreciate the extent to which this is unavoidable, acknowledging that concrete progress had been made at modernization such as the new Blockley Building. We were encouraged to hear that decreasing demands in tuberculous admissions will shortly free that building for other necessary purposes.

Of special interest were the plans to relieve the serious congestion in the Psychiatric Wards. We understand that 160 additional beds will be available within six months. However, the problem of mental patients at "P. G. H." is by no means solved by this addition. We were advised that numerous mentally ill must be refused admission because of lack of space. And there is lack of space at "P. G. H." because of lack of transferral space in our mental institutions. Let us recall also that this problem of the mental defective is an all-inclusive institutional problem. Not only our municipal hospital but our municipal prisons are harrassed because our municipal mental institutions are inadequate. In all our city prisons we were informed of the large number of mental cases confined. In some instances these were extreme cases which required special custodial care. And this "special" demand upon a guard complement not sufficiently staffed to meet ordinary custodial requirements!

RECOMMENDATIONS

There is a great need of new furnishings for the clinic areas. Both treatment rooms and waiting rooms require more modern accomodations.

MOYAMENSING PRISON

Census: 855

Grand Jurors were appalled by conditions at Moyamensing. We now know, not from hearsay, but from observation, that Moyamensing is the "step-child" of the prison program. These conditions are especially evident in the South Block which houses untried cases. In cells built to accomodate one prisoner, three or four were crowded. And since these are untried cases, non-criminal types must often be celled with the criminal. There were many severe mental cases in this block. At the end of the block, we were introduced to the "cattle pen." This is the blunt, and all too accurate description of the initial confinement at Moyamensing following delivery of offenders by the Sheriff's Van. We were informed that into these two cell-like rooms (unfurnished except for a bench in one and an uncovered toilet in the other) as many as 80 men were pressed for a matter of hours during the period of processing them according to their crimes. The processing is unavoidably lengthy because of the critically understaffed custodial force. This processing is repeated two or three times a day with each arrival of the Sheriff's Van. The guards scarcely complete one period of processing before another van-load of accused arrive.

RECOMMENDATIONS

We believe the situation at Moyamensing demands immediate correction. Increased guards are an urgent—an

emergency—need! Why cannot Civil Service supply sufficient acceptable personnel to prison staffs for training as guards?

Increased guards are an imperative necessity. But nothing short of a new County Prison will solve the problem that is Moyamensing Prison. Certainly, the present system of housing tried and untried cases in one institution is wholly untenable. In effect, it is not "a system," it is a divided system. Tried and untried cases are often necessarily forced together; regulations which apply to one prisoner cannot be applied to another. But until this ideal is attained, a new County Prison (with a separate House of Detention for untried cases) will not the Prison Board heed the need of added assistance at Moyamensing? Surely the present administration merits complete consideration. Warden William Dennison, Captain John Clark and the entire staff are doing unquestionably heroic work to maintain order and decency in such disruptive conditions. But theirs is a defeating task; they face such overwhelming odds of overcrowding and understaffing. The strain upon them is quite evident. Our complete congratulations to Warden Dennison and his staff for, we repeat, their manifestly heroic work. Conversely, the Women's Section of Moyamensing appears normally filled and adequately staffed. We congratulate Matron Marie Marnie and her staff for their admirable work among the women. The Women's Section requests coffee urns to replace the outdated method now in use.

CONCLUSIONS AND SUMMARIZATION

1. We propose an investigation into the issuance of driver's licenses. From certain cases we reviewed, we question whether the licenses were really issued to holders thereof, or did someone else take the test for such persons.

2. We believe the Malicious Mischief Law should be strengthened to comprehend all property damages, including damages to personal property.

3. We endorse heavy sentencing to sellers of narcotics. On this subject also, we suggest a Placement Agency for "cured cases" of narcotics users.

4. We are heartened to learn that the law against sex offenders has been strengthened. Concerning this category of crime, however, we concur that corrective measures be applied to such obvious sources of sexual crimes as salacious publications and films. We vehemently recommend that City Council enact legislation to control these "salesmen of smut" by the enactment of a Movie Censorship Ordinance. Since the recent enfeebling of our State Board of Censors by court rulings, blatantly indecent films, hitherto banned, are appearing in our neighborhood theatres. And these theatres are chiefly patronized by the young. It is the young also who buy the so-called "comic books," too many of which can only be classified as obscene. Legislation is imperatively needed to rout this plague of foul films and publications. We have experienced first hand the truth of the finding made recently by the Senate Subcommittee on Juvenile Delinquency that the "overwhelming evidence" it has gathered indicates a definite relationship between motion pictures and Juvenile Delinquency.

5. We wholly commend the exchange of foodstuffs among our city institutions. We think the farm and cannery at Holmesburg an excellent project which supplies other institutions with quality provisions at significant savings.

6. We applaud the effectiveness of the campaign against intoxicated drivers. We believe such drivers a menace to the very lives of other citizens, and wholly agree with the current campaign to correct this critical problem.

7. Our wholehearted congratulations to our sincerely hardworking law enforcement services: The District Attorney's Office, the entire police and park guard forces, particularly the narcotics division and the vice squad; and all others whose work we witnessed.

8. Our fullest appreciation to Assistant District Attorney Armand Della Porta for his graciousness, his unfailing patience in advising us. We applaud his selfless interest in his work. We consider it important to have men as intensely attentive to this work, as sensitive to its human relations aspects as he is. Equally, our gratitude to Assistant District Attorney John R. Sutton for his valuable assistance in Mr. Della Porta's absence. Our heartfelt thanks also to Court Officers Michael Tankle and Michael Januisak. Both were singularly genial at all times despite the pressure of work. We view their kindness and consideration, not only to us but to every witness they contact, a model for all court officers.

9. From our observation of the District Attorney's Office, and by comparison to other jurisdictions, we conclude that our District Attorney's Office is greatly understaffed and overworked and that there is an immediate need for an increase in the number of Assistant District Attorney's and clerical help.

10. Having observed some of our court rooms in operation, we believe that there is a great need for better facilities, better court rooms; in fact it is quite evident that our city has long been in need of a new Court House.

11. We members of the July Grand Inquest cannot sufficiently express our gratitude for the privilege we have enjoyed to learn and to serve as we have this past month. We have learned widely about the laws of our Commonwealth, an invaluable knowledge. But valuable beyond the learning has been the serving. We trust that service to our fellows has been as honest, as devoted as our consciences tell us it should be. We deeply thank the Honorable Leo Weinrott for this privilege.

FOREMAN Henry R. Abrams
1542 North Franklin Street

Philadelphia, August 31, 1956

TO THE HONORABLE JUDGES OF THE COURT OF OYER AND TERMINER AND QUARTER SESSIONS OF THE PEACE FOR THE CITY AND COUNTY OF PHILADELPHIA, PENNSYLVANIA.

During the August, 1956 Grand Inquest, we acted upon the following indictments:

True 1339, Ignored 48, Total 1387.

Homicides 9, Narcotics 56,, Invol. Mansl. 32, Forgery; Wthls. Checks 21, Drunken Driving 216.

Robberies 74, Sex Crimes 123, A & B, Agg. A & B 223, Lottery 127, Liquor 57.

Burglaries and Larceny 250, C. C. D. W. 66, Rosist. Arrest 16

INSTITUTIONS VISITED

Moyamensing Prison

Census: 810

Male 695 Female 74

Warden—Richard Dennison

Moyamensing Prison was built in 1835 as a jail, and was not meant to be a prison. Today it is an outmoded, disgraceful type of construction, dangerous to the health and well-being of the inmates, and the welfare of the Community.

Prisoners are housed in tiny, inadequately ventilated cells, which do not permit them the proper air demanded by health authorities. This condition cannot be improved without breaking down the construction, because the walls are made of large stone blocks, and the cells are very close to each other. Remove one block for each cell and the building would collapse under the strain.

It is difficult to imagine how the prisoners can breathe on a hot day in one of these dungeon-like cells.

Warden Dennison clearly has a very difficult situation here, with the odds against him. The cells are not only tiny, but overcrowded. In the South Block which houses untried cases, untried non-criminal types are often celled with the criminal. Severe mental cases are also housed here.

There are 40 to 50 juveniles, averaging 16 and 17 years of age, and they cannot be properly segregated, due to the lack of space.

The Bullpen, or processing room was meant to accommodate 15 to 20, and daily has as many as 70.

The regular doctor told us he was leaving because of poor facilities and overwork. There is no full-time doctor.

Recommendations

Definitely a new prison is needed. There is no way of improving these old buildings physically, and the obvious dangers ahead from over-crowding call for immediate action to avoid disaster.

Nurses and clerical help are badly needed. The medical help is mostly inmate, and are not adequately trained. There are only 3 social workers, and a need for more guards. The latter is an imperative necessity for security.

There is only 1 painter, 1 plumber, 1 brick mason, 1 electrician and contrary to law, one engineer, when two are required at all time for safety. A steam fitter is needed when the engineer is sick, or overtime requires it. There are no laundry facilities for men. The laundry will accommodate the needs of only 450, thus compelling the men to do their own laundry in these tiny cells.

Holmesburg Prison

Census: 1395

Warden—Fred Krueger

Warden Krueger and Captain James Stott are doing an excellent job here.

Here again you have overcrowded conditions. However, the Grand Jury was gratified to note the trades taught inmates, and the excellent type of professional, paid supervisors. The attempt to place every prisoner in a work suited to his capabilities is commendable, thus affording a real attempt at rehabilitation. The quality of food served looked good, and was a revelation to some of us. The bakery supplies Riverview and the House of Correction.

The prison's affiliation with the School of Correspondence, and the coordination of trades with study by the appointment of two teachers to Holmesburg is also very commendable.

The laundry, bakery, weaving, shoe and carpentry shops, the school building and hospital are well run, and clean. The farm and cannery are an excellent example. It supplies other institutions.

Recommendations

Holmesburg, like all old prisons, is badly in need of new extensions, or an entirely new prison for security reasons. There are only 720 cells, and 1395 prisoners are far too many to be reasonably housed. We particularly emphasize this.

Fifteen more guards are needed. We were told that guards are lacking when some have vacations, shifts and days off.

There is a definite need of more trained medical help.

Exhaust fans are needed in the kitchen.

We feel Warden Krueger and his staff are achieving fine results in spite of the unwholesome and dangerous overcrowding and undermanned force.

House of Correction

Census: 800

Here again, as in Holmesburg, classification according to capabilities for work is apparent throughout the shops, and the quality of food and medical care is good.

In the machine and paint shops we saw articles manufactured, such as cabinets and table tops. In the laundry, we saw women shrinking cloth for use in uniforms. Incidentally, the laundry for Riverview is taken care of here. An opportunity for female inmates to learn a trade is also available.

The new chapel was singularly impressive, and we think it exemplifies rehabilitation more than any other phase of that field.

We wish to express our thanks to Warden Charles Day and Social Service Supervisor Theodore Chapman for their earnest and genuine desire to help their charges. Also, thanks to Superintendent of Matrons Doris Whitney for her excellent work with the female inmates.

Recommendations

Here you have the same lack of personnel as in Holmesburg and Moyamensing. Fifteen more are badly needed. In the social service there are only 3 assistants for 800 inmates.

Re-distribution of prisoners is strongly indicated here.

The young boys work close by with older men. We strongly recommend these boys be sent to other institutions where the program is planned around their age group.

Our attention was drawn to the need for solid doors in each cell with openings, of course. They used to have them, and they were substituted for the open latticed variety. One mentally disturbed inmate can arouse everyone a whole night.

The cement floor in the kitchen is cracked, and detracts from the otherwise sanitary appearance, and the use of garbage cans for cooking, although perfectly clean, are too hard to handle because of the faulty small handles on each side.

Riverview

Census: 987

It was a fine experience for this Grand Jury to learn of the change in this institution, where trained personnel has replaced the untrained of so few years ago. The residents enlightened us as we toured around this excellent institution with keen observations.

Superintendent Raymond J. Groller has a gigantic job to perform and he deserves our compliments for the changed conditions since he has been in office.

Recommendations

Riverview needs 56 more employees, a full time doctor, dentist, chiropodist, and 8 hospital aides. Social workers are in demand. With 987, three more are required, particularly because 172 residents are feebleminded.

We noted the need for many more comfortable chairs, a big item to old folks.

Steam tables are needed in the cafeteria, also donations of books and reading matter.

There is a nice dual chapel, fine hobby shop, and the entertainment and library seem adequate.

The dining area and kitchen facilities are excellent.

Philadelphia General Hospital

The Grand Jurors are grateful to Mr. Rodzenko, the Administrative head of this excellent hospital, for an enlightening and gratifying tour, in the absence of Dr. F. Lloyd Mussells.

Here progress at modernization, such as the new Blockley Building, was a heartening sight, after our dismal tour of Moyamensing. We were delighted to hear that decreasing demands in tuberculosis admissions will free that building for other needed purposes.

The wards, kitchen facilities and food were perfection in cleanliness and quality.

Because of the lack of space, numerous mentally ill must be refused, but this is a problem because of lack of transferral space in our mental institutions. Our municipal hospital and prisons are harrassed because of this problem.

Mr. Rodzenko pointed out the nurse shortage. If nurses' pay were increased, this problem would be solved.

CONCLUSIONS AND SUMMARIZATION

1. Our gratitude to Assistant District Attorney Armand Della Porta for his patience and graciousness in advising us, and conducting these hearings. His obviously dedicated attention to his work, his understanding of human frailty, and his never failing courtesy to witnesses and ourselves, was our keynote in behavior and courtroom conduct. Thanks also to his able, hard-working staff. Similar thanks go to Assistant District Attorney John R. Sutton.

From our observation of the entire District Attorney's Office, we conclude that it is extremely understaffed and overworked. By comparison to D.A.'s Offices in other jurisdiction, both the Attorney's staff and the clerical personnel should be doubled, and this should be done immediately. Salaries of the entire personnel leave a lot to be desired. As they stand now, the office is perennially training new personnel because as soon as a typist or stenographer, for example, is trained she leaves for private employment where her salary is usually double. In spite of all this, we find that Mr. Victor H. Blanc and each and everyone of his assistants are doing an excellent job as the chief law enforcement agency of our great City. We can all be proud of this office.

Our warmest thanks also to Court Officers D. Benjamin Bocchicchio and John Durso. Both were singularly kind and patient at all times in face of the pressure of their work.

2. We were appalled to note the numbers of sex offenders. Their outrageous preying on children, plus the fact that some of their records showed previous arrests on the same charges, compel us to plead with the Courts to pass heavier sentences on these offenders. The State of Maryland goes so far as to have Capital Punishment for rape.

3. The Senate Committee on Juvenile Delinquency has noted with alarm the increase of these youthful offenders since movie censorship has been on the decrease. Our own State has abolished movie censorship, and we feel it has badly erred in judgment. Our neighborhood theatres are showing some flagrantly indecent films, which lead us to plead with City Council to enact legislation to control this situation.

So-called "comic books" when purused carefully, are suggestive and obscene. The definite relationship between this form of literature, indecent films, and Juvenile Delinquency has been definitely established through the painstaking efforts of the Senate Sub-committee. Please take note, City Council, to the added dangers which confront our youth, and do something, namely, enact legislation immediately, and set a good example for other cities.

4. We propose that the campaign against intoxicated drivers be pursued in as relentless a fashion as possible. Here we commend the police on their excellent performance in tracking them down. The senseless loss of life and limb caused by these irresponsible drivers is appalling.

5. The entire police and park guard forces, and particularly the narcotics division and vice squad are to be congratulated for their excellence in law enforcement. We strongly urge that private doctors be permitted to treat dope addicts more extensively. Failure to do so has often driven the addict into the underworld to obtain his needs. England has coped successfully with this narcotics problem, and has far fewer numbers of addicts percentage

wise to ours due to the simple fact that more private doctors there treat them.

6. We recommend a raise in pay for all Court Officers in lieu of the lack of overtime pay for the extra hours they work.

We also recommend a raise in pay for firemen, policemen and park guards. These guardians of our peace and property have poor salaries to compensate their strenuous and dangerous work in protection the Community.

7. We visited Court rooms, Jury rooms, Probation offices and other facilities in City Hall and found them to be generally inadequate. This antiquated building is lacking in space, and modern comforts. For example, the Court rooms are unbearably warm, poorly ventilated and where the windows are opened, they are so noisy that it's impossible to hear the witnesses. Court rooms have no facilities for attorneys to talk to witnesses with any degree of privacy. The jury rooms are generally small and dingy. The inadequacies are such that space facilities have to be rented out in other buildings. Air-conditioners, paint jobs, microphones, and a good overhauling are recommended. Most Court rooms throughout the Country are air-conditioned; yet Philadelphia lags behind. A new City Hall is the only answer.

8. We wish to draw attention to another need in this City Hall, namely the serious lack of space for the Probation Department. Here you find probation officers sitting at desks so close to one another that privacy is ruled out. How can witnesses confide their private remarks when they are aware of others probably inadvertently listening? At least twice the amount in square feet is required to do a good job.

Each worker has as many as close to 200 case loads to take care of monthly. How can this amount be taken care of efficiently by one person?

The physical limitations and lack of privacy are bad enough, but include the lack of officers and clerical help, and you cannot possibly expect the Probation Department to function properly. This is one of the most vital departments in criminal rehabilitation. We urge that steps be taken immediately to remedy the situation.

We also found the Psychiatric Department lacking in space. Presentence investigation at the request of the Judges, and often mental examination for homicide cases at the request of the D.A. are held here. A great deal depends on this department; yet, all they have in the way of space are three small rooms to function.

9. We, the members of the August Grand Inquest, realizing the importance and seriousness of our work, trust we have performed it efficiently and conscientiously.

We express our gratitude for the privilege to learn more about our Courts, and to serve the community to the best of our ability. We personnally wish to express our sincere appreciation and thanks to our Foreman for an important job well done, and our efficient secretary, also Mrs. Florence B. Knapp, Mr. George Kass, Mrs. Margaret Hughes and Mr. Eddie Davis for their important contribution in the preparation of this report.

It has been a privilege to have served in this Grand Jury under the wise guidance of the Honorable John Morgan Davis.

Foreman, Grace Auerback,
445 W. Hansberry Street.

Secretary, Rita McFadden,
5027 Clarkson Avenue.

DISTRICT ATTORNEY'S OFFICE

Room 666 City Hall

Philadelphia 7, Pa.

VICTOR H. BLANC
District Attorney

September 28, 1956

Harold Watkins
Secretary of the Senate
Capitol Building
Harrisburg, Pa.

Dear Mr. Watkins:

Enclosed please find two copies of the Philadelphia September Grand Jurys final presentment. Its comprehensiveness, scope and quality merit state-wide recognition. I feel that at least parts of it are of special interest to you and the entire membership of the Senate, when they reconvene.

Very truly yours,

ARMAND DELLA PORTA
Assistant District Attorney
Chief, Indictment Division

Enclosures
ADP/fb

P. S. This is the last letter you will be receiving from me on this subject, but the reports will keep on coming to you from my successor, Thomas Shiomos, since I have been promoted to the Trial Staff of this office.

ADP

TO THE HONORABLE JUDGES OF THE COURT OF OYER AND TERMINER AND QUARTER SESSIONS OF THE PEACE, FOR THE CITY AND COUNTY OF PHILADELPHIA, PENNSYLVANIA.

The Grand Inquest of the Commonwealth of Pennsylvania, for the City and County of Philadelphia, September Sessions, 1956, respectfully submit the following report as the result of their term in office.

True, 1207; Ignored, 51; Total, 1258.

Homicides, 8; Narcotics, 24; A & B, Agg. A & B, 168; Robberies, 81; Sex Crimes, 171; Invol. Mans., 16; Burglaries and Larcenies, 184; Deadly Weapons, 68; Drunken Driving, 112; Resisting Arrest, 24; Liquor, 93; Lottery, 148.

INSTITUTIONS VISITED

MOYAMENSING

Census: Male 783

In contrast to physical conditions of the worst sort: overcrowding, dampness, buildings unworthy of repair, are the morale and competency of Warden Dennison and his insufficient staff of ten men. The cleanliness of the prison is remarkable when the overcrowded and understaffed conditions are remembered. The evident excellent

maintenance of the institution reflects great credit upon the staff.

How they do it, we do not know; for it was enough to observe Moyamensing, let alone work in it. The crying need is the provision of additional, trained personnel to augment the staff and then a new building to relieve the overcrowded conditions. In the end, this will prove economical of the mighty efforts put forth by the present employees. It will also counteract mistakes possible in the initial interview with a prisoner. The receiving room for incoming prisoners is absolutely inadequate. It is no larger than a small kitchen. Separating and screening of prisoners in this situation are impossible. This condition could conceivably lead to the death of a diabetic or other ill individual, brought here under the misapprehension of intoxication or drug addiction.

It was pointed out to us how the mentally ill and mentally retarded have gradually been removed from the County Prison (except those awaiting completion of "paper work"). This is a magnificent advance.

HOLMESBURG PRISON

Census:	White Male	269
	White Negro	1098
	Total	1367

Warden Fred Krueger and Captain James Stott took us through the medical clinic and ward; printing, baking, weaving, shoe shops, the laundry and school building. There was orderliness in the manner of the prisoners' participation in work details. The equipment in use is first-rate. Much skilled staff work goes into the selection of prisoners for a particular job.

Compliments for the high quality of meals served.

A new penal institution replacing Moyamensing would permit Holmesburg to "come into its own" and operate efficiently. For example, Holmesburg is now forced by lack of accommodations to mix prisoners serving for misdemeanors with those serving for felonies committed.

HOUSE OF CORRECTION

Census:	White Male	468	Negro Male	236	704
	White Female	42	Negro Female	74	116
		510	Total	310	820

Superintendent of Prisons, Mr. Edward J. Hendrick, talked with us about prison problems. We like his "look to the future" and enlightened approach. We recommend his zeal be backed by City Council in providing more well-trained personnel to carry out all the proper functioning of prisons under his supervision.

We felt the productivity of the prisoners commendable —articles like mattresses made, furniture refinished for institutional use. Especially fine was the work done in cooperation with other city departments—the street barricades constructed and painted for the city traffic department, as an example.

Would exhaust fans be installed here in the kitchen, the paint-peeling condition of the ceiling would be corrected. Attention should be paid to the unsanitary condition of the cracked kitchen floor.

PHILADELPHIA GENERAL HOSPITAL

Census	Male	703
	Female	721
		1424

On the tour Dr. Fetter led, we saw the new foods administration building which is a lovely, modern sight. It provides a dining-room for staff, students; better facilities for food preparation than the hospital possessed before.

The rehabilitation section needs to be seen to be appreciated. The scenes we saw: a patient trying on artificial limbs; another learning again to speak after a brain injury; a child limbering up on a mat—the same child who was once given up as a fatality.

There is good use of the various clinics here, but Dr. Fetter stated they no sooner make more space for clinic patients that they need still more.

Again, without the provision of more, well-trained personnel, the good points of this huge hospital will be nullified. (Please make salaries commensurate with those other hospitals offer. We need to attract talent to our city's hospital).

RIVERVIEW

Census:	Male	568
	Female	418
		986

No one can visit Riverview without being touched by our aged, indigent population. We feel the residents of Riverview are receiving excellent, loving care. We can imagine a little what a great amount of planning and supervision goes into the work to achieve the cheer and cleanliness observed. 3,000 meals daily is itself a stupendous job. What delicious smells came from the cold storage room—as nice as your grandmother's springhouse.

The new building being dedicated shows how far the city has moved ahead in its concern and planning for the aged.

(We believe volunteer workers could be recruited from civic groups if the matter were publicized).

ACKNOWLEDGMENTS

To Assistant District Attorneys Mr. Armand Della Porta and Mr. John R. Sutton, our warmest regards for their great kindness and patience helping us with understanding the law to do our month's work.

We don't know how to thank Court Officers Mr. Michael Januisak and Mr. Ben Bocchicchia for such fine assistance expediting the business of the September 1956 Grand Jury.

Thanks to the House of Correction for a generous midday meal—beef-steak no less.

Thanks to Philadelphia General Hospital for the cafeteria luncheon in the new foods administration building's dining hall.

RECOMMENDATIONS

1. Of all the apparent needs of Moyamensing, Holmes-

burg, House of Correction, Philadelphia General Hospital, Riverview, the first and most urgent is the procurement of additional trained personnel. Please note, we do not say add just more workers to each staff, but hire additional trained, qualified personnel. We wish we could express this so eloquently that urgency would be felt and translated into immediate action. Each staff head of each of the above mentioned institutions expressed the same, primal requisite.

2. Since the Pennsylvania Supreme Court has found our forty-one (41) year old Movie Censorship Statute unconstitutional and since we feel very strongly about the lack of decent selection in the entertainment world—especially movies— we recommend City Council take appropriate measures toward setting up a censorship body which will be constitutional. The close relationship between immoral movies and Juvenile Delinquency has not only been established by a study by a U. S. Senate Sub-committee, but it is our personal experience in our great city.

3. We think that Philadelphia greatly needs a new and functional city hall. (As we write, Mayor Dilworth has proposed new quarters for city offices.) A time comes when present day needs burst through the walls of the past. For example, there are no facilities for attorneys to talk privately with witnesses, great difficulties in acoustics, ventilation, and generally so out-of-date is the building, it cannot perform well its needed functions.

4. After the recent outbreak and attack on a D. A. by a defendent in a court room, we urge added protection provided to safeguard the individuals present.

5. Moyamensing Prison is the weak link in the institutions of this city, and because of its utter inadequacy, seriously interrupts the functioning of the related city institutions. Both Holmesburg Prison and the House of Correction are affected adversely by the situation at Moyamensing. Moyamensing is a security problem, with but ten guards to police a population of more than 700. Moyamensing is physically incapable of any screening of prisoners other than segregation of the more violently disturbed. Recidivists, mentally disturbed prisoners, feeble-minded, juveniles, first offenders, and those charged with misdemeanors and felonies are mingled together in overcrowded cells. With the inadequate accomodations of Moyamensing, nothing else is possible. In this institution any rehabilitory work is impossible. When there are too many offenders to be housed at Moyamensing, they are sent to Holmesburg and the House of Correction. Consequently, unconvicted men are placed with the convicted, and Holmesburg, already crowded, becomes more so.

What is needed, therefore, is a new, modern prison, designed with forethought for the requirements of a growing, metropolitan area. In the meanwhile, we need a House of Detention to take care of the problems we have mentioned above.

In this regard, we heartily congratulate Mr. Harry Shapiro, Secretary of Welfare, for his significant accomplishments so far in alleviating some of the conditions described above. For instance, he has been able to have removed from County Prison in the last couple of months, all the mentally ill, except those who are waiting report of commissions on their sanity. Steps are being taken right now by Mr. Shapiro, together with the Courts and District Attorney, to shorten this waiting period as much as possible. Also, all mentally retarded, except one or two awaiting for execution of proper papers, have been removed. Further, the new reception center at P. G. H. is now prepared to receive all persons including those charged with crime, for the purpose of diagnosis and immediate disposition to one of the three intensive treatment units which are now available for cases in the Philadelphia area. Finally, the recent opening of Wissahickon Hall has helped immensely in relieving the congestion in the psychiatric wards of P. G. H.

6. In the matter of the District Attorney's Office, we concur with the recommendation of the August 1956 Grand Jury. Considerably handicapped is this law enforcement office by inadequate salaries and insufficient help. Clerical salaries allowed are too meager to attract and hold efficient workers. Salary adjustments would ultimately be economical. Satisfied workers would produce stability. Stability would cause cases to move through the office more quickly. This would save money.

7. As laymen, our contacts with our policemen, detectives and all law enforcement agents are slight. Our experience as members of the September Grand Jury has made us see we owe them a debt for their dedication to their work—exposed as they are to more danger than most of us. Particularly commendable and reassuring to us, as average citizens, is the present campaign against drunken driving. (We were most favorably impressed with those members who appeared before us.)

8. It has been brought to our attention that some drivers obtained licenses improperly either by having other qualified drivers to take the test for them, or by obtaining a new license under a fictitious name after their own license had been revoked. We suggest that if photographs and fingerprints were required of each applicant before the issuance of a license, such frauds could not be perpetrated.

FOREMAN, Eleanor J. Mullen
37 S. 50th Street

SECRETARY, Odessa Poland
1248 S. Harmony Street

DISTRICT ATTORNEY'S OFFICE

Room 666 City Hall

Philadelphia 7, Pa.

VICTOR H. BLANC,
District Attorney

November 30, 1956

Lt. Gov. Roy E. Furman
President of the Senate
Capitol Building
Harrisburg, Pa.

Dear Sir:

Enclosed please find two copies of the Philadelphia November Grand Jury's final presentment. Its comprehensiveness, scope and quality merit state-wide recognition. I feel that at least parts of it are of special interest to you and the entire membership of the Senate.

Very truly yours,

THOMAS SHIOMOS
Assistant District Attorney
Chief, Indictment Division

Enclosures
TS/fg

TO THE HONORABLE JUDGES OF THE COURT OF OYER AND TERMINER OF THE PEACE, FOR THE CITY AND COUNTY OF PHILADELPHIA, PENNSYLVANIA

The Grand Inquest of the Commonwealth of Pennsylvania for the City and County of Philadelphia, November Sessions 1956, respectfully submit the following report as the result of their term in office.

1. BILLS OF INDICTMENT

Number of Bills found true	1349
Number of Bills found ignored	37
Total Number of Bills	1386

Homicides 3	Involuntary Manslaughter 7
Robberies 48	A & B; Agg. A & B 154
Narcotics 38	C.C.D.W., etc. 65
Sex Crimes 131	Drunken Driving 111
Burglaries & Larcenies 182	Lottery 169
Liquor 97	Forgery 25
Resisting Arrest 19	Murder 3

2. INSTITUTIONS VISITED

Holmesburg—November 14, 1956

Census: White Male	278
Negro Male	1196
Total	1474

Warden Krueger and his staff are doing an excellent job at Holmesburg in spite of the dangerous overcrowding and the lack of sufficient number of employees on the staff.

Insofar as it is possible modern methods of treating prisoners are being used. Attempts to rehabilitate the prisoners are evident because of the effort made to place every man in the work suited to his capabilities. The prison's affiliation with a School of Correspondence and the coordination of trades with study is very commendable. The general morals of the prisoners seemed to be high.

The whole institution is clean and well cared for. The laundry, bakery, weaving, shoe and carpenter shops are excellently run. The hospital is excellent and seems fully adequate for prison needs. If a resident doctor could be added to the staff, this efficiency could be increased.

House of Correction—November 14, 1956

Census:	White	Negro	Total
Male	321	212	533
Female Tried	30	65	95
Untried	5	48	53
	356	325	681

Included in the above figures are 15 girls and 111 boys in the Pennypack Division (for juveniles).

Warden Charles Day is doing an excellent job in the House of Correction with the facilities available. He was very willing to talk to the Grand Jury and helped us to see the existence of a number of prison problems.

His ideas for improvements are constructive and should be carried out.

Riverview—November 14, 1956

Census: Male	563
Female	416
	979

The new Home for the Indigent should be a source of pride to the citizens of Philadelphia. It indicates how far the City has moved ahead in its concern and planning for the Aged. No one can visit the institution without being impressed and touched by the care given the aged and indigent. Superintendent Raymond J. Groller is largely responsible for the warm and happy atmosphere that prevails.

Philadelphia General Hospital—November 20, 1956

Census: 1422

Philadelphia can be proud of the Philadelphia General Hospital which is under the direction of Dr. Fetters. The new Mills Building is a credit to the City. The physical therapy department, the occupational therapy rooms for the mentally disturbed patients, the training of the handicapped are examples of high caliber efforts at rehabilitation. The cafeteria is new and modern and serves excellent food.

Moyamensing Prison—November 20, 1956

Census: 975

Warden Dennison briefed the jury on procedures. The appalling condition of the prison was evident in the "untried" wing. Cells are small, dark dungeons, reminiscent of the "middle ages." Mental and tubercular inmates are housed in this wing without suitable facilities or qualified personnel to attend the needs of the above. Moyamensing is without a resident physician.

Lack of personnel makes it necessary to utilize the services of inmates in processing new prisoners. This can lead to low morale, unrest, and/or blackmail. Housekeeping is good and the food excellent.

Recommendations for Holmesburg

1. There is great need at Holmesburg for a building program to prevent the over-crowding of cells which now exists.

2. The staff should be increased according to the need. The situation, under present conditions, is dangerous because of the impossibility of giving adequate supervision, especially at night.

3. Salaries should be increased for all employees. The present low salaries (lower than in other cities of comparable size) mitigate against the employment of trained and qualified persons.

4. Prisoners might be helped if they were given the incentive of a small compensation for good work accomplished.

5. Psychiatric service for prisoners should be increased greatly.

Recommendations for House of Correction

1. The need for re-distribution of prisoners is strongly indicated here. Young boys who are first offenders should be sent to some other institution where a program can be planned for this age group. These young prisoners need psychiatric treatment and continued vocational guidance.

2. There should be an increase in the number of guards and matrons.

3. An opportunity for female inmates to learn a trade should be available.

4. An increase in budget for the House of Correction would make it possible for some of the problems to be corrected.

5. There is a desperate need for a new House of Correction.

Recommendations for Riverview

1. There should be a fulltime resident doctor in this institution.

2. The old buildings are still sub-standard and need renovation. An elevator is urgently needed in the old building.

3. An additional new building is needed to reduce overcrowding.

4. A further increase in personnel (maintenance staff and social workers) would make this institution even more efficient than it is now.

Recommendations for Philadelphia General Hospital

1. Increase salaries of nurses to commensurate with salaries in other hospitals! this is imperative!!!

2. Retain budget requested in order to maintain high quality personnel and provide for maintenance of buildings.

3. Set up and maintain a private section so that moneys received could be put in a revolving account and used for research and development. This would be apt to recruit doctors of special abilities.

4. Increase number of doctors in out-patient department.

5. Increase number of personnel in all departments.

6. Continue reconstruction program.

Recommendations for Moyamensing

1. A new prison is desperately needed (in addition to present quarters).

2. Old prison needs to be renovated completely from top to bottom.

3. Additional personnel, guards, and clerical help should be added.

4. Adequate medical facilities should be established, and qualified personnel employed to staff the same.

Philadelphia is a city of tradition. We pride ourselves on setting high standards, but we fail to follow through. For instance, let us compare the employees of the District Attorney's Office with those of Los Angeles, a city of comparable size.

	Los Angeles	Philadelphia
Assistant D. A.'s	87	28
County Detectives and/or Police	77	11
Clerical Staff	108	39

Also, the salaries are equally sub-standard. In order to attract and recruit capable and qualified personnel, salaries should be comparable to Los Angeles. We are indeed fortunate to have personnel of such high caliber in spite of the disadvantages.

We expect citizens to keep the law, yet at the same time legislation under the Act of 1939 has been ignored in relation to the number of Assistants assigned to the District Attorney's Office. The Home Rule Charter is being violated. This states compensation should be charged to the borrowing activity and not against moneys appropriated to the department lending personnel. Yet, police are loaned to the D. A. and illegally compensated. This could bring criticism to an administration that has made more progress since 1952 than has been seen in two decades.

Our courtrooms are a disgrace, with peeling paint and poor ventilation. There is a great lack of proper facilities such as jury rooms and conference rooms. For example, during the vice trials presently being heard, there are curious and morbid individuals flocking to hear them. Witnesses are stared at, Counsel and clients do not have the privacy which is their right. This inadequate situation also applies to juries held overnight, because there are no facilities to accommodate these juries, and it is necessary to house them in nearby hotels. Witnesses held in protective custody are also housed in public accommodations. This has often brought criticism upon our police and District Attorney departments, due to actions of witnesses.

Philadelphia does not need a new City Hall, rather a County and City Court House, where trials can be held and juries and witnesses accommodated.

Recommendations to City Council

The Grand Jury petitions City Council to accept the following proposals that:

1. Good lodging and dining accommodations be provided for juries held overnight be provided in City Hall.

2. Lodging and dining accommodations be provided in City Hall for witnesses held in protective custody, there eliminating adverse publicity.

3. Adequate jury and conference rooms be provided.

4. Air conditioning units in court rooms in City Hall.

5. A County and City Court House be built to hear trials. City Hall could then be used for administrative functions.

6. Salaries should be paid to the District Attorney and Assistant District Attorneys comparable to those paid in Los Angeles. Salaries of other employees in this office should be raised accordingly.

7. Legislation under the Act of 1939 in relation to the number of Assistants in the District Attorney's Office be adhered to immediately.

Serving on the Grand Jury has been an interesting, educational, and illuminating experience for the present members of the Grand Jury. Citizens should welcome the opportunity to serve in order to observe first hand the functioning of the Court system and in order to see the fine efforts made by the police department, and the District Attorney's office, to bring offenders to justice.

We wish to thank Mr. Thomas Shiomos, and Mr.

Jerome Dalka, Assistant D.A.'s, and Mr. John Patrick, legal clerk in D. A.'s Office for their very indispensable help in interpreting the law. Their kindness and courtesy in questioning witnesses was particularly commendable. Their considerate treatment of little children offsets to a large degree any undesirable effect appearing in court might have for them. We are especially grateful to Mr. Ben Bocchichio and Mr. Mike Janusak for their patience and help in expediting the processing of the many cases reviewed.

We would like to add that the Grand Jury feels incapable of submitting an accurate evaluation of the institutions visited. We feel that a group of qualified people should also make investigations so that the best interest of the inmates and the citizens of Philadelphia can be realized.

DISTRICT ATTORNEY'S OFFICE

Room 666 City Hall

Philadelphia 7, Pa.

VICTOR H. BLANC
District Attorney

January 4, 1957.

Lt. Gov. Roy E. Furman
President of the Senate
Capitol Building
Harrisburg, Pa.

Dear Sir:

Enclosed please find two copies of the Philadelphia Grand Jury's final presentment. Its comprehensiveness, scope and quality merit state-wide recognition. I feel that at least parts of it are of special interest to you and the entire membership of the Senate.

Very truly yours,

(Sgd) Thomas Shiomos
THOMAS SHIOMOS
Assistant District Attorney
Chief, Indictment Division

Enclosures
TS/fb

TO THE HONORABLE JUDGES OF THE COURT OF OYER AND TERMINER OF THE PEACE, FOR THE CITY AND COUNTY OF PHILADELPHIA, PENNSYLVANIA

The Grand Inquest of the Commonwealth of Pennsylvania for the City and County of Philadelphia, December Sessions 1956, respectfully submit the following report as the result of their term in office.

BILLS OF INDICTMENT

Number of bills found true	1551
Number of bills found ignored ...	47
Total number of bills	1598

Miscellaneous 111	Involuntary Manslaughter 32
Robberies 28	A & B; Agg. A & B 147
Narcotics 66	C.C.D.W., etc. 88
Sex Crimes 98	Burglaries & Larcenies 267
Drunken Driving 223	Liquor 83
Lottery 209	Resisting Arrest 24
Forgery 69	Conspiracy 81
Murder 23	

During our service on the December Session of the Grand Jury, we observed a number of things which should be eliminated or minimized. These are:

1. The traffic in narcotics.
2. The manufacture and sale of untaxed liquor and illegal sale of taxed liquor.
3. The volume of play of numbers and to a lesser amount pools and bookmaking.
4. The delay in processing drunken driving cases.
5. The participation of juveniles in various crimes.
6. The frequence of the use of firearms in crimes especially by juveniles.

We realize that it is impossible to legislate these out of existence. Neither do we blame the police department for the situation as it exists. Rather it is through the number of arrests by the police that we become aware of the gravity of the problems.

We feel that the types of crime mentioned above could be lessened considerably if the proper legislation could be passed and enforced. Our rocommendations will be discussed in detail as it is only by and with the weight of public opinion that progress can be made.

1. The traffic in narcotics.

This is a particularly bad problem as it involves the placing of people under the control of a habit forming drug.

This in turn means frequent purchases at from $2.00 to $5.00 a time. Few people can afford this which means they must resort to illegal methods of obtaining extra income. It is also next to impossible to obtain evidence against the heads of the narcotics rings.

It is obvious therefore that the only practical way is to discourage the distribution system as this is the only way the drug can be handled. Too many sellers and possessors of narcotics are let go with fines or light sentences. It should be mandatory that a first offender receive at least a two year sentence, second offender double that, third offender double that of the second offender, and so on.

The sentences above should be considered as the minimum time to be spent in jail before becoming eligible for parole.

2. The manufacture and sale of untaxed liquor and illegal sale of taxed liquor.

This is another violation of the law in which too many are repeat offenders. Too many are only fined repeatedly. As this is not too serious a crime it is recommended that a prison sentence be made mandatory with the second offense and increase in size for each offense thereafter.

3. The volume of play of numbers and to a lesser amount pools and bookmaking.

This violation of the law seems innocent enough but too many of the players are ones who cannot really afford to play. At present many of those caught are fined $25.00 or $50.00 which represents perhaps the profits from a few days take only. It is recommended that jail sentences be mandatory with the second offense and increasing sentences be mandatory with each subsequent conviction.

4. The delay in processing drunken driving cases.

Although cases in which the defendant is committed to jail are handled with reasonable speed, there is often a two or even three month lapse before indictments are brought before the Grand Jury when the defendant is on bail. There is no reason for this delay as the arresting officer and certificate of the inspection by the police surgeon are usually sufficient grounds for finding a true bill or ignoring the indictment.

5. The participation of juveniles in various crimes.

It is with deep concern that we view the growing participation of juveniles in crime. The best place to reverse this trend is in the home. It is therefore recommended that the City of Philadelphia follow the example of other cities and make the parents financially responsible for damages wrought by their minor and juvenile offspring. The use of guns by juveniles is also alarming. It should be a definite crime for a minor to own a gun which can be carried in a concealed manner and also to possess firearms not made by a recognized manufacture. These particular crimes should carry mandatory jail sentences with no suspended sentences allowed.

6. The frequence of the use of firearms in crimes especially by juveniles.

The majority of firearms possessed by the juveniles are home made affairs. The recommendations under (5) above should take care of this.

The firearms act presently in force has several legal loopholes which should be plugged. For the most part these can be checked by adding the following:

a. Make it an equally drastic penalty for carrying a firearm other than a rifle or shotgun (not sawed off) openly instead of concealed without a license or to have in one's possession in a location other than one's residence or place of business one of the aforementioned firearms.

b. A publicity campaign should be instituted to encourage owners to register any short barrelled firearm. As it stands now the best source for a criminal's firearms is by stealing. Too often a record is not kept by the owner of the serial number of his gun. This procedure, not to be confused with licensing, insures the recording of serial numbers of firearms and subject any one possessing a firearm with serial numbers of a gun reported stolen to a charge of possessing stolen goods.

We strongly recommend that a number of dogs be obtained and trained for use by the police department particularly in the areas of the city where there is a high crime rate.

In addition to our prime function of passing on indictments we also toured and inspected five of the institutions and prisons operated by the City of Philadelphia. In general, we were pleased with what we found. The detailed reports on our findings and recommendations follow:

Moyamensing—December 18, 1956

Census—886

Warden Richard W. Dennison and Captain John J. Clark escorted us on our tour of Moyamensing prison. This prison is sadly out of date although the area which was previously used for women is much better than the rest of the prison. Since the prison is not of modern design the staff is inadequate to handle the work and must rely on prisoners for some of the supervisory details. Although every effort is made to segregate the prisoners according to type, the facilities are overtaxed by the number of prisoners. The paint on the warden's office ceiling needs replacing.

Philadelphia General Hospital—December 18, 1956

Census	
Male	713
Female	667
Total	1380

Dr. F. Fetters met us and conducted us on our tour. The food seemed to be of good quality in the cafeteria. The hospital has facilities for serving warm food to the beds but we understand that the carts are frequently not heated so that the food arrives at the beds cold. The paint on the walls in the receiving area is peeling and should be replaced.

Although the hospital is not over-crowded its main problem is a shortages of nurses. This can only be alleviated by increasing the nurses pay at P. G. H. so that it is in line with the wage scale at the neighboring institutions

Every effort is being made to put the operating room floor back to its original conductivity so that there will be no chance for a tragic accident during an operation.

Holmesburg—December 11, 1956

Census	
White Male	247
Negro Male	1130
Total	1377

Warden Fred Krueger and Sgt. Samuel Reese took us through the prison. Both men seemed to take a sincere interest in their work and their attitude is reflected throughout the rest of the staff. Security measures taken to prevent trouble between prisoners and escapes from the prison are excellent. The staff on hand is adequate although a few additional personnel would enable Warden Krueger to do a better job in training the prisoners. We feel that the pay schedule of the guards should be made equal to that received by the policemen.

We believe that the floor in the hospital section operat-

ing room is not conductive. This should be replaced with a conductive type to prevent any accidental explosions during emergency operations.

The prison itself was kept clean and neat although a few match sticks were noticed in the cracks of the dining room in the hospital section.

A new chapel is needed and we understand that this is included in the budget. An early completion of the project is recommended.

House of Correction—December 11, 1956

Census	White	Negro	Total
male	298	247	545
(tried) female	26	74	100
(untried) female	8	45	53
	332	366	698

Included in the above figures are 18 girls and 134 boys in the Pennypack Division (for juveniles).

Warden Charles G. Day, Mr. A. W. Brough, and Parole Officer T. Chapman conducted our tour through the House of Correction. Warden Day expressed Superintendent of Prisons Edward J. Hendrick's regrets over not being able to be present. We enjoyed a good nourishing meal in the cafeteria.

It was gratifying to see that many of the recommendations of previous grand juries are being carried out. For example, the women now have small tables on which they can place their personal belongings. Also, the kitchen, dish washing room and dining room floors are to be replaced in the near future. The kitchen floor, especially, although kept as clean as possible is very worn and unsightly. There is an opportunity for both men and women prisoners to learn trades now. Additional personnel could be used in this phase of the program.

As with Holmesburg the pay of the guards should be brought to the same level as that of the city policemen.

Space is at a premium and additional space will be needed in the future.

Warden Day advised that he would appreciate receiving a copy of the December report so that he could get all of the Grand Jury's recommendations.

Riverview—December 11, 1956

Census	
Male	568
Female	410
Total	978

Superintendent Raymond J. Groller greeted us on our arrival and showed us some of the pictures from the TV show on Riverview when the annex was used for the first time. After the showing of the pictures he took us on a tour of Riverview. Much has been done to make Riverview better and more liveable. The annex is an excellent example of what can be done for our aged who can not be taken care of by their own means and relatives.

Additional personnel are badly needed to take care of those who are unable to adequately care for themselves. Positions for registered nurses and practical nurses although authorized are still unfilled through lack of applicants. Help is needed to maintain a maintenance crew as the House of Correction is unable to handle Riverview's maintenance in addition to its own. For example, in the old section two drain spouts outside the dayroom need repair, chairs in the main bedroom ward need painting. In the annex, cobwebs were observed in the overhead lighting areas in the ladies bathroom in one cottage and tape was still on the chrome work on wall receptacles by the sinks.

A fireplace screen should be provided in the recreation area of the annex so that a wood fire can be enjoyed this winter.

Increased therapy work is desirable and additional personnel will be needed to supervise it as well as funds to obtain materials.

We wish to commend the entire District Attorney's Office for its efficiency. It is an extremely well run office which we, as the citizens of this city, can be proud of. The Indictment Division, with which we have been in close contact, is to be especially commended. We wish to thank, particularly, Assistant District Attorney's Thomas Shiomos and Jerome R. Balka and Legal Clerk John Patrick for their help in interpreting the law. They have been a great aid to this Grand Jury.

We would like to express our sincere gratitude to Mr. Ben Bocchichio and Mr. Mike Janusak.

It has been an honor for us to serve on this Grand Jury. We feel that all citizens of Philadelphia should experience this. We are glad to have had the opportunity to serve since we have seen how well organized our police department is and what a wonderful job they are doing.

We wish to thank our Foreman, Finley R. Porter, Jr., and our Secretary, Pearl Levin, for doing a job that was outstanding.

DISTRICT ATTORNEY'S OFFICE

Room 666 City Hall

Philadelphia 7, Pa.

VICTOR H. BLANC
District Attorney

March 4, 1957

Lt. Gov. Roy E. Furman
President of the Senate
Capitol Building
Harrisburg, Pa.

Dear Sir:

Enclosed please find two copies of the Philadelphia February Grand Jury's final presentment. Its comprehensiveness, scope and quality merit state-wide recognition. I feel that at least parts of it are of special interest to you and the entire membership of the Senate.

Very truly yours,

(Sgd) Thomas Shiomos
THOMAS SHIOMOS
Assistant District Attorney
Chief, Indictment Division

TS/fb
Enc.

GRAND JURY REPORT

February, 1957

TO THE HONORABLE JUDGES OF THE COURT OF OYER AND TERMINER AND QUARTER SESSIONS OF THE PEACE FOR THE CITY AND COUNTY OF PHILADELPHIA, PENNSYLVANIA

The Grand Inquest of the Commonwealth of Pennsylvania, for the City and County of Philadelphia, February Sessions, 1957, respectfully submits the following report as the result of its term in office:

TRUE BILLS	1478
IGNORED BILLS	40
TOTAL	1518

On February 14, 1957, the Grand Jury visited the following institutions:

HOLMESBURG PRISON

Fred Krueger, Warden

Census:	235	Male White
	1120	Male Negro
	1355	Total

Warden Krueger and Captain James Stott courteously escorted the Grand Jury on a thorough and explanatory tour of the institution. We were deeply impressed by the absolute cleanliness of the prison. We found the physical plant in excellent condition, clean eating and cooking facilities, good sanitation system, good medical and educational programs, and well-equipped and supervised shops in which the men are being taught useful trade

The reduction of idleness and the program for rehabilitation are greatly limited by two factors: first, the overcrowded condition existing (724 cells, 1355 inmates); and second, the shortage of guards without which such programs are impossible. Additional guards are needed desperately for Holmesburg and Moyamensing, not only for security reasons which in themselves are important, but also to make possible greater efforts toward the rehabilitation of our prison population.

HOUSE OF CORRECTION

Edward J. Hendrick, Superintendent
Charles G. Day, Warden

		White	Negro	Total
Census:	Male	378	292	670
	Female (Tried)	34	75	107
	Female (Untried)	7	49	56
		419	416	835

(Included in the above figures are 14 girls and 128 boys in Pennypack Division)

Superintendent Hendrick and Warden Day met with the Grand Jury to discuss the existing problems of our prisons and correctional institution namely the shortage of adequate personnel, and the special problems of the House of Correction which our members were able to observe during our tour.

We feel juveniles should be provided with separate housing and segregated as much as possible from adult inmates. Mental deficients pose another great problem due to the length of time before acceptance into state institutions. Untried and tried prisoners should certainly be kept separated but again the problem of insufficient space and staff arises.

Institutions on State level are desperately needed for the training and treatment of mentally disturbed boys and girls and correctional institutions for our delinquent children.

RIVERVIEW

Raymond J. Groller, Superintendent

Census:	Male	572
	Female	400
	Total	972

It is an understatement to say the Grand Jury was very much pleased with the "new look" of Riverview. The treatment, facilities, activities, entertainment offered the guests, the architecture and decor of the new section the outdoor surroundings is certainly a project every Philadelphian can be proud of. In contrasting "old" and "new" Riverview, it can only be hoped that necessary funds will soon be allocated to provide the additional building needed to completely eliminate the old section.

There is a definite need for more personnel, especially nurses to administer and care for the aged at Riverview. Volunteer workers are very much welcomed and this should be brought before the public.

Superintendent Groller is to be highly commended not only for his very capable management, but for the wonderful relationship of friendliness and good-will which exists between himself and the men and women of Riverview.

On February 19, 1957, the Grand Jury visited the following institutions:

MOYAMENSING PRISON

Richard W. Dennison, Warden

Census:	Main Cells	808
	Annex	83
		991

Assoc. Warden Bookbinder and Lt. Holmes took charge of the Grand Jury's visit in the absence of Warden Dennison. The staff is to be commended for their efforts toward cleaning up an antiquated prison. The members of the Jury are in accord that the best solution for Moyamensing would be an entirely new prison.

Overcrowding is still a very serious problem even though the Women's Section is now used for men. The lack of sufficient number of guards all over is dangerous and insensible—one must look long and hard to see a guard.

We were also advised that Moyamensing has the grand total of one (1) nurse to administer to over 900 men.

PHILADELPHIA GENERAL HOSPITAL

Dr. Fetters, Medical Director

Census:	Male	739
	Female	664
	Total	1403

Dr. Fetters addressed and escorted the Grand Jury and we feel he should be justly proud of the work being done by the hospital under existing conditions.

The shortage of nurses at P. G. H. is critical, not only due to the national shortage of nursing personnel, but to the low salary scale in effect at P. G. H. Because of the lack of proper nursing staff, beds must be placed close together in the wards, in halls, on sun porches, so patients can be handled easier.

Our tour included the psychiatric and pediatric wards, children's ward and clinics and therapy rooms. The facilities for occupational and physical therapy seemed very good, but the lack of staff again prohibits fullest use being made of them. Volunteer hospital workers are urgently needed and can be well-utilized.

YOUTH STUDY CENTER

Dr. E. Preston Sharp, Executive Director

Our Youth Study Center is extremely well-run, and everything seems to be carried out to improve the character and behavior of our juveniles while waiting for court appearances or commitments to other institutions. It is an excellent example of the very latest in school facilities and craft shops, and we wish to comment very favorably on the ingenious chapel conversion, gym, cafeteria, medical and dental facilities and living quarters.

Dr. Sharp, addressing us and thoroughly acquainting us with the philosophy and aims of the Center, stressed the fact that 30-40% more children could be handled throughout the year, without additional funds, if children were released shortly after their commitment by court to other institutions.

Again we state the need for State institutions for delinquent and defective juveniles.

SUMMARY OF VISITS

It was a great privilege to visit these institutions. We were treated cordially in every case and those in charge and their assistants seem very competent and dedicated to their work.

It is almost impossible to make a satisfactory evaluation of such large institutions in detail as the time alloted was so short. On the whole we found the services apparently adequate and the inmates as well cared for as is possible for maladjusted or ill people.

All of the institutions were clean and orderly. Treatment, food and conditions, in general, were good. Waste was not evident.

Nourishing and pleasing meals were served to us at the House of Correction and the Philadelpiha General Hospital and we wish to extend our hearty thanks.

At each institution, the same plea was heard:

"We need more help as we are operating on only a minimum staff."

In fact, we were given to understand that needed help is a grave necessity.

The proper authorities, no doubt, are aware that these conditions are prevalent as it has been mentioned in previous reports, but again we stress it.

FURTHER COMMENTS AND RECOMMENDATIONS

Many cases are being sent to the Grand Jury that, we feel, should be handled by the magistrates. The Grand Jury system should be reviewed with the purpose of finding a more efficient plan since practically all cases are voted to be true bills. The ignored bills in most cases are obvious.

Competent legal minds could possibly come up with a solution that, in the long run, would save many man hours of officials, officers, and witnesses, as well as taxpayers' money.

At the present time, we feel our District Attorney's Office is understaffed due to the tremendous work-load placed upon it, and we recommend that City Council provide the necessary funds for the two additional Assistant District Attorneys authorized under law.

The Grand Jury feels Philadelphia can be justly proud of its police force. They are competent and courteous and at all times pleasant and most helpful.

In the vice cases concerning young girls, we suggest having a woman (from the District Attorney's Office or a policewoman) assigned to accompany them through all the hearings. They could help the girls with their testimony and also help alleviate some of the great embarrassment these girls feel.

We further think that our policemen who have their uniforms ruined while attending to their duties should be reimbursed from the money confiscated from raids.

We wish to thank Mr. Carberry, our foreman, and Miss Ansink, his able secretary, for their efficiency in carrying out their duties.

We also extend our thanks to Mr. Jerome Balka and Mr. Thomas Shiomos for their effective interpretation of the points of law and able questioning of witnesses.

Please extend our acknowledgement of the splendid help received from the staff of the District Attorney's Office and our Court Clerks, Ben Bocchiocco and Michael Janusiak.

DISTRICT ATTORNEY'S OFFICE

Room 666 City Hall

Philadelphia 7, Pa.

VICTOR H. BLANC
District Attorney

March 29, 1957

Lt. Gov. Roy E. Furman
President of the Senate
Capitol Building
Harrisburg, Pa.

Dear Sir:

Enclosed please find two copies of the Philadelphia March Grand Jury's final presentment. Its comprehen-

siveness, scope and quality merit state-wide recognition. I feel that at least parts of it are of special interest to you and the entire membership of the Senate.

Very truly yours,

Thomas Shiomos (FB)
THOMAS SHIOMOS
Assistant District Attorney
Chief, Indictment Division

TS/fb
Enc.

TO THE HONORABLE JUDGES OF THE COURT OF OYER AND TERMINER AND QUARTER SESSION OF THE PEACE FOR THE CITY AND COUNTY OF PHILADELPHIA, COMMONWEALTH OF PENNSYLVANIA

We, the 19 members of the March, 1957 Grand Jury, respectfully submit the following report of our activities:

I. Bills of Indictment

Number of true bills returned	1592
Number of bills ignored	58
Total number of bills processed	1650
Number of days processing indictments	18
Number of days visiting institutions	2
Total number of days in session	20

Miscellaneous	57	Involuntary Manslaughter	16
Robberies	77	A & B; Agg. A & B	199
Narcotics	40	C. C. D. W., etc.	96
Sex Crimes	86	Drunken Driving	145
Burglaries & Larcenies	328	Lottery	255
Liquor	125	Forgery	92
Resisting Arrest	25	Murder	21
Conspiracy	88		

II. Statistics From Institutions Visited

On March 13, 1957, nineteen members of the Grand Jury visited Holmesburg Prison, House of Correction and Riverview Home for the Indigent. The following week, March 20, 1957, eighteen members of the Grand Jury visited Moyamensing Prison and the Philadelphia General Hospital.

Population Statistics:

Holmesburg Prison

Census:

White Male	237
Negro Male	1068
Total Population	1305
Number of Habitable Cells	724

House of Correction

Census:

	White	Negro	Total
Male	392	297	689
Female (tried)	25	78	103
(untried)	8	41	49
(untried in Byberry)	2	1	3
	427	417	844

*Includes 121 boys
12 girls

Riverview

Census:

Male	573
Female	397
Total	970

Eighteen members of the Jury visited Moyamensing Prison and Philadelphia General Hospital on March 20, 1957.

Moyamensing Prison

Census:

Tried	240	
Untried	650	
Total	890	(includes 14 in Philadelphia General Hospital)

Philadelphia General Hospital

Census:

Male	734
Female	656
Total	1390

Generally, we, the members of the March Grand Jury, were satisfied with the institutions that were visited. Of course, there are many areas in need of improvement. These instances will be cited in our list of recommendations. The officials and guard personnel of the various institutions seemed to be of a very high caliber; and we were thoroughly impressed by the job they were doing in the face of many obstacles, particularly, a lack of adequate personnel.

At Holmesburg Prison, we were conducted on a tour by Warden Fred Krueger and Captain of the Guards James Stott. Both of these officials were very cordial and readily answered all of our questions. The jury was very impressed with the cleanliness of the institution.

In visiting the House of Correction, we were welcomed by the warden, Charles G. Day. In addition, we met Mr. Edward J. Hendrick, Superintendent of County Prison. Through formal and informal conversation with Mr. Hendrick, the jury was convinced of his competence and proper dedication to hold such a position. After the juries' talk with Mr. Hendrick, a tour of the institution was made. The physical plant and other facilities were considered to be adequate, but overcrowding was apparent.

Mr. Raymond J. Groller, Superintendent of Riverview, greeted the Jury upon its arrival at the home for the indignent. In company with members of his staff, Mr. Groller conducted us around the buildings. The jury felt that the old buildings were being maintained remarkably well in spite of their age. We were very much impressed with the new building. It is a real tribute to the foward look adopted by the City of Philadephia in caring for our aged indigents.

Upon arrival at Moyamensing Prison, the Grand Jury was met by Mr. Bookbinder, the acting warden. Of all the institutions visited by the Grand Jury, Moyamensing appeared to be in the worst condition. This was mainly due to the age of the structure as well as an appalling

lack of personnel. The Grand Jury felt that improvements in this institution should be affected as soon as practicable.

Doctor Fetter greeted the Grand Jury at the Philadelphia General Hospital. We were taken on an extensive tour of the buildings. The hospital seemed to be well maintained and efficiently administered. Once again a lack of adequate personnel especially trained nurses, was a serious problem. Nevertheless, the Grand Jury unanimously agreed that the hospital staff was doing a commendable job.

The March Grand Jury wishes to thank the two court officers, Michael J. Janusiak and D. Benjamin Bocchicchio, for their assistance and cooperation in aiding us to perform our duties. We also wish to express our gratitude to members of the District Attorney's Office, especially Assistant District Attorneys Balka and Shiomos.

III. Recommendations:

Holmesburg Prison

1. The planned building to house the Chapel, Athletic and indoor recreational facilities at this instituton should be built as soon as possible.

House of Correction

1. Segregation of juveniles and adults should be complete, eliminating the present contact in work shops and dining hall.

a. A separate wing similar to that of the Female Division, or construction of a separate institution is necessary.

b. Further segregation may be effected in the present facilities by having the juvenile boys use the women's dining room.

2. A complete record of the juvenile inmates should accompany their arrival at the institution.

3. More effort should be made to keep the juvenile busy during their stay and at the same time help prepare them for their return to society. In this connection, it is recommended that the services of a military instructor be obtained to provide military training for these boys. The National Guard is suggested as a possible source of instructors for such a program. This should help engrain in these boys some sense of discipline and respect for authority.

4. It is believed that society would be served better if juveniles were released with the advice and consent of the staff of the institutions under whose care these juveniles have been placed.

5. An auditorium or some such facility should be provided for indoor activities in winter and during inclement weather.

6. Larger facilities for religious observance should be provided.

7. The need for more personnel is evident.

Riverview

1. Improvement of the old buildings should continue as quickly as possible.

2. Further attempt to increase the staff is necessary.

Moyamensing

1. Lack of sufficient personnel in the guard force and medical (nurses, etc.) Force is evident. An immediate attempt to improve this situation should be made.

2. The facilities are too limited for the number of inmates. Therefore, we suggest this institution be used exclusively for untried persons and those serving short sentences with the exception, that a labor force of good behavior long termers be housed there to help provide the necessary labor for operation of the kitchens, shops, and maintenance work.

3. Mentally ill, epileptics, etc., should receive better medical care. They should not be detained at this institution for long periods of time.

4. Additional improvements should be made along the following lines:

a. Installation of better facilities for receiving prisoners.

b. Visiting room should be enlarged.

c. The kitchens need better equipment.

d. Exercise and recreational areas should be provided.

Philadelphia General Hospital

1. Additional personnel, especially nurses, are needed.

IV. General Recommendations

1. This Grand Jury is in favor of the general provisions of Bill No. 176 which is now before the state legislature prohibiting wire tapping or the use of wire tapping equipment by anyone except law enforcement officers. We also wish to recommend that wire tapping by law enforcement officers, if legalized, be used with discretion, and that suitable restraints be incorporated in the regulations to prevent its indiscriminate use.

2. In order for the District Attorney's Office to function with maximum efficiency, we recommend the addition of more Assistant District Attorneys.

Sincerely,

March Grand Jury

KARL DAHLEN, FOREMAN
RUSSELL JOSEPH, SECRETARY

TO THE HONORABLE JUDGES OF THE COURT OF OYER AND TERMINER AND QUARTER SESSIONS OF THE PEACE FOR THE CITY AND COUNTY OF PHILADELPHIA, COMMONWEALTH OF PENNSYLVANIA

We, the members of the April, 1957 Grand Jury, respectfully submit the following report of our activities:

I. BILLS OF INDICTMENT

Number of true bills returned	2024
Number of bills ignored	87
Total number of bills processed	2111
Number of days processing indictments	22
Number of days visiting institutions	2
Total number of days in session	24

Miscellaneous	322	Involuntary Manslaughter	4
Robberies	132	A & B; Agg. A & B.	192
Narcotics	86	C.C.D.W., etc.	73
Sex Crimes	131	Drunken Driving	187
Burglaries & Larcenies	321	Lottery	341
Liquor	192	Forgery	35
Resisting Arrest	38	Murder	12
Conspiracy	93		

II. INSTITUTIONS VISITED

Moyamensing:

1. Very overcrowded.
2. Definite need for new house of correction.
3. Recommend abolishment of tubercular section, and use of Philadelphia General Hospital or Holmesburg Tubercular Wards immediately.
4. No place for juveniles.

Philadelphia General Hospital:

Well kept, clean and well managed.

Holmesburg:

Very satisfactory in all phases.

House of Correction:

Satisfactory.

Riverview:

1. Abolish old section.
2. More funds, in order to add to present new section, which is beautiful.

III. GENERAL RECOMMENDATIONS:

1. Change order of visits, in order to visit at different times of the day.
2. Provide more time for visits to large institutions, especially Philadelphia General Hospital.

It is the opinion of the various administrators of the institutions that they are badly understaffed. From our short visit, that was difficult to determine. On the surface it appears to be so, especially at Moyamensing.

We suggest a further investigation by competent officials.

It has been brought to our attention that court officers are paid the same amount regardless of hours they put in. We feel that they should receive compensation for any overtime, especially when overnight with a locked jury.

Also, we recommend one more court officer for Grand Jury duty, in order to speed up the presentation of cases.

In view of the 92 District Attorney's Assistants in Los Angeles and the 67 in Manhattan, it seems that with 28 District Attorney's Assistants in Philadelphia, we are badly understaffed.

We feel that wire tapping be used for detector purposes only. A means by which direct evidence may be obtained. We feel a court order should be obtained before its use.

We commend Captain Clarence Ferguson and his squad on the recent dope raids. Such continued work should ventually wipe the dope traffic from this city.

We also commend the District Attorney and his men on their drive to remove obscene literature from the public newstands.

We also wish to commend Assistant District Attorney Thomas Shiomos and his staff for doing a fine job.

JOHN J. YOUNG, FOREMAN
NORMA ORMSBY
MARGARET SMITH,
SECRETARIES

May 31, 1957

TO THE HONORABLE JUDGES OF THE COURT OF OYER AND TERMINER AND QUARTER SESSIONS OF THE PEACE FOR THE CITY AND COUNTY OF PHILADELPHIA.

DURING THE MAY, 1957 GRAND INQUEST, WE ACTED UPON THE FOLLOWING:

BILLS OF INDICTMENT

Number of true bills returned	1248
Number of bills ignored	48
Total number of bills processed	1296
Number of days processing indictments	15
Number of days visiting institutions	2
Total number of days in session	17

Miscellaneous	266	Involuntary Manslaughter	12
Robberies	27	A & B; Agg. A & B	116
Narcotics	44	C. C. D. W., etc.	11
Sex Crimes	104	Drunken Driving	99
Burglaries & Larcenies	183	Lottery	224
Liquor	89	Forgery	9
Resisting Arrest	37	Murder	11
Conspiracy	64		

HOLMESBURG PRISON VISITED MAY 15, 1957
WARDEN FRED KRUEGER, CAPT. STOTT

Census: White Male 245; Negro Male 1065; Total 1310

This institution is in good condition, and well kept, considering the overcrowded conditions (720 cells for 1310 inmates). The rehabilitation program for this prison is very good. It teaches the inmates a trade, enabling them to earn a livelihood after their release. Schooling is also available to the men wishing to further their education.

The kitchens, eating quarters, cells, work shops etc. are clean and well painted. The prisoners do most of the work in repairs and maintenance, also the baking, clothing and shoes used in other institutions. There is spacious recreation facilities available to all the inmates. A new Chapel is planned to be built soon, and which is so badly needed. Warden Krueger, Capt. Stott and their staff are doing an excellent job.

Recommendations

1.The long termers should be sent to the State Prisons.

2. More guards are needed.

3. We need another Penal Institution in this city to relieve the overcrowded conditions.

4. We are forwarding the two letters given us by one of the inmates (Blackburn) to Assistant District Attorney Jerome R. Balka for further investigation, and the June Grand Jury should follow it up.

HOUSE OF CORRECTION—VISITED May 15, 1957

WARDEN CHARLES G. DAY

	White	Negro	Total
Male	387	328	715
Female	24	78	102
Untried ...	7	46	53
	418	452	870

Included in the above figures are 15 girls and 140 boys in the Pennypack Division (for juveniles).

We were greeted by Warden Day and Mr. Hendrick, Supt. of Prisons, and briefed on the current activities of this institution. Then we engaged in a delightful lunch in the employees dining-room. Most of the work here is done by the inmates, and at the same time they are gaining restaurant experience.

We were very impressed with the spacious work shops and the modern power equipment used; as well as rehabilitating the men, they are also producing useful items, that other departments of the city are benefiting by. There are trained personnel for most of these projects.

Most of our visiting was in the female division. They have an excellent opportunity of learning a good trade, and also furthering their education. The overall clealiness is excellent and well kept. The hairdressing shop is a good moral for the women. The walls are all clean and well painted. The visiting privileges are twice a week, with cheerful quarters for such. The much needed chapel is in the process of being built shortly.

The hot house seems to be quite a drawing card for the younger boys. They are not only doing a good job under the guidance of a very able man, but also planting and landscaping the grounds both here and at Riverview, making a vast improvement to each place.

Warden Day should be highly complimented along with his staff for the good management and fine work being done in the kitchens, installing the quarry tile. They raised their own funds for this project and are doing the work. There were not enough funds to complete the dining-room fully.

RECOMMENDATIONS

1. The juveniles should be in a separate institution.

2. More guards are needed.

3. Overcrowded conditions. We need another Penal Institution in Philadelphia.

4. Funds to complete the balance tiling of the dining-room area.

5. The chef needs some professional help instead of all inmates.

RIVERVIEW

VISITED MAY 15, 1957 SUPT. R. J. GROLLER
ASST. E. STAUFFER

CENSUS: MALE 581. FEMALE 402. TOTAL 983.

Supt. Groller greeted us on our visit to Riverview, also invited us all to their annual picnic to be held on June 5th. His very able assistant took us on a tour of both the old and new buildings. Most of the incompetent residents are housed in the old building, and require considerably more care than the others. Elevators to the second floor are in process and will relieve the overcrowded conditions which now exists in the sleeping quarters of 88 beds with cabinets for each, all in one unit. The dual chapel is also in the old building.

The new building is modern in every respect, and equipped with a barber shop, beauty salon, also excellent equipment and facilities for Physical Therapy and hobby shops. There are six beds with cabinets to each unit, tile showers and individual lockers. A large variety of magazines, reading matter, television sets, special movies and outside entertainment is provided. The dining area is spacious and the meals are well balanced.

The old folks seem to be happy and content.

The grounds are well kept by inmates from the House of Correction.

Mr. Groller and his staff should be complimented on the excellent management and the good work accomplished at Riverview. It is an asset to our city.

Recommendations

1. There is an urgent need for a resident doctor, nurse, practical nurses and attendants.

2. The second floor should provide six bed units, thus eliminating the large dormitory on the first floor.

GENERAL RECOMMENDATIONS

1. We, the members of the May Grand Jury, recommend to legalize gambling. This would release our policemen to other duties, also save the courts a lot of time and expense, and expedite cases of more important matters. We understand a very small majority of these cases are ever convicted and people will gamble regardless, and will continue to do so.

2. We wish to thank the Court Officers, Ben Bocchicchio and Mike Januisak for their fine coperation. They are doing an excellent job. They should without a doubt have an increase in salary, and also be paid for overtime work, and extra compensation for overnite duty with jurors.

3. Recommedations for good police work: Ptlm. Moore, Morrissey and Buchenhorst, in the Accident Investigation Division. Also the police officers on the Narcotic and Vice squads are to be commended.

4. We recommend that the courts appoint a "Sentencing Board." I. E., all persons found guilty through trial, be brought before this board to be sentenced. This would be a fairer way of handling the sentences. Since all persons committing the same type of crime, and under similar circumstances would receive the same sentence. As it is now, the sentencing is up to the Judge He is guided by the law, but much is left to his discretion. Therefore, someone may receive a sentence of 3-5 years and another convicted of the same crime and under the same circumstances, may, under a different Judge, receive 6 months to 1 year. This has been proven to be true.

5. In conclusion, we wish to express our sincere appreciation and thanks to His Honor Judge Griffiths,

Assistant District Attorney Jerome R. Balka, for his untiring efforts, and the interpretation of the points of law, and able questioning of witnesses. Also to his entire staff for the fine work they are doing and the cooperation they have given us. More Assistant District Attorneys are urgenty needed to continue their fine work.

PHILADELPHIA GENERAL HOSPITAL

VISITED MAY 14, 1957

Census: 1420 Patients Cap. 1769

We were met by Dr. Fetter at the Administration Building, who took us on a tour of inspection of several buildings, first distributing maps on same. We were also accompanied by Mr. Kelsner (Supt. of Bldgs.), Mr. Jackson, a County Detective, and Mr. Bocchicchio.

We started on the fifth floor of the Maternity Building and worked our way down. We were pleased to note how well these floors were organized and run. The walls were all painted in cheerful and some vivid colors.

We were very much impressed with the first floor Central Service, which is under the very able, capable supervision of Mr. Ulshafer. The trays are all prepared with instruments and supplies for all the wards, and carts for the operating rooms. It is fully equipped with the finest stainless steal equipment, and operated 24 hours daily.

We made a quick stop at the Catholic Chapel on our way out, which is another fine credit to P. G. H.

Psychopathic Women's Ward was well kept and clean.

Physical Therapy is also under very capable supervision and well conducted.

Mills Building, T. B. Wards are under the capable supervision of Mrs. Scully. We are pleased to note the decrease in T. B. cases.

Rehabilitation for Polio, Cerebral Palsy and other patients have capable personnel and the finest equipment.

This institution is one of the finest we have, and which every Philadelphian should be proud of. It houses diseases of every description, and has most of the finest and latest equipment available and the finest doctors in the world. However, these services are only limited to people with low incomes. We recommend this ruling be revised, so that the so-called middle class be availabe to the same opportunities.

FOOD SERVICE BUILDING

We next visited the Food Servcie Building. We found this building to be modern in every respect, clean and well supervised. This building is situated in the center of the hospital grounds. It is a five story plus penthouse building constructed of brick and limestone with extensive glass window areas along its side walls. The fifth floor houses the library and reading room and a large roof garden. On the fourth floor is a dining-room where we all enjoyed a very appetizing lunch. The third floor consists of a dining-room for employees, doctors and nurses. The second floor houses the kitchens of the finest stainless steel equipment. and has excellent supervision. The kitchens can turn out 13,500 meals daily. The first floor consists of stationery and office supplies and administrative rooms.

Construction on this building started early in 1952 and was completed in the spring of 1954. The architect was Eugene Stopper who died the year the plans were approved. Work was then taken over by the firm of Gilboy, O'Malley and Clauss. The general contractor was McCloskey and Company. Interested in the construction on behalf of the city and supervising was the clerk of the works, the Electrical Burea, and City Architect's Office and the Health Department.

Our examination of this building revealed that there are numerous grave and serious defects in the construction and design of the building. These defects have resulted in deep interior cracks in the wall surrounding two of the picture windows on the fourth and fifth floors, cracks in the corners near the structural glass on the fourth and fifth floors, loose bricks and mortar on the outside of the building, water seepage and leaks in the roof of the building, loose and missing ceiling tiles and marks of water seepage, and an accumulation of stagnant water in the electrical transformer room in the sub-basement. Some of these defects are shown in the pictures which are attached to this report. In order to learn why the building which is only three years old should show such grave defects, we questioned a number of witnesses. We learned that one wall of this building is so defective and the cracks are so bad that the wall is in immediate danger of falling and that to prevent anyone from being injured when the wall does fall, the walking area and the base of the wall have been barricaded and roped off. We further learned that the accumulation of stagnant water in the electrical transformer room is such a serious hazard that anyone entering that room who is not extremely careful may be electrocuted. We have been told by witnesses with engineering backgrounds that the cracks and defects in the walls of this building appear to result from lack of sufficient expansion joints, and that this problem was known to responsible authorities as early as the spring of 1954 and even before the building was completed. We have also been told that the roof of this building is guaranteed by the roofer against leaks

Our questioning of witnesses has revealed that it was obvious that more expansion joints should have been provided for in the plans and design of this building. Prior to the completion of the building, the general contractor notified responsible city authorities that additional expansion joints would be necessary to prevent walls from cracking and falling. The general contractor requested permission to install these joints. The contractor's request was vetoed by responsible city authorities, despite the fact that city engineers and architects agreed that the expansion joints were necessary.

Why didn't the city authorities who accepted the architect's plans and designs insist upon additional expansion joints? Why wasn't the contractor's request to install additional expansion joints approved? Why has nothing been done in the past three years to repair the leaks in the roof of this building? Why has nothing been done to correct the stagnant water problem in the sub-basement, which has existed for the past three years? We have been unable to get the answers to these questions.

Recommendations

On the basis of what we have learned, we feel that there is a strong possibility that the city has been cheated in the construction of this building. We recommend that a special Grand Jury be impaneled to look into the construction of this building to find the answers to these questions.

CLARA CELLUCCI, Forelady

PITTSBURG PUBLIC SCHOOLS

Earl A. Dimmick, Superintendent

Pittsburgh 13, Pa.

Administration Building
Bellefield Avenue at Forbes

July 26, 1956

Hon. Roy E. Furman
Lieutenant Governor
Commonwealth of Pennsylvania
Capital Building
Harrisburg, Pennsylvania

My Dear Mr. Furman:

On Tuesday, July 17, 1956, the Board of Public Education of the School District of Pittsburgh adopted a resolution expressing its appreciation to the 1955 Session of the General Assembly of Pennsylvania for legislation beneficial to this school district.

It is my privilege to transmit a copy of this resolution to you along with my personal thanks for the many new laws benefiting the public schools of Pittsburgh and the Commonwealth.

Sincerely yours,

EARL A. DIMMICK,
Superintendent of Schools

EAD:db
Enclosure

RESOLUTION

EXPRESSING APPRECIATION OF THE PITTSBURGH BOARD OF PUBLIC EDUCATION TO THE 1955 SESSION OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA.

Whereas, The Board of Public Education of the School District of Pittsburgh being in need of additional revenue to operate the Pittsburgh public schools did request the 1955 Session of the General Assembly of the Commonwealth of Pennsylvania to enact measures affording financial relief, and

Whereas, the General Assembly passed and the Governor of the Commonwealth signed House Bill 914 (Act 226) authorizing an increase of 1½ mills in the real estate tax for public school purposes in Pittsburgh thus providing an estimated $1,600,000 in additional revenue each year, House Bill 917 (Act 643) granting subsidy parity per teaching unit with Philadelphia payable during the school year 1955-1956 thus providing an estimated $762,000 in additional State support, and other beneficial items of legislation,

Be it, therefore, resolved, that The Board of Public Education of the School District of Pittsburgh does hereby express its appreciation in behalf of the children, teachers, and other employees in the Pittsburgh public school system to Governor George M. Leader, Lieutenant Governor Roy E. Furman, Speaker of the House of Representatives Hiram G. Andrews, President Pro Tempore of the Senate Harvey M. Taylor, and the members of the General Assembly for their action in providing a measure of financial relief to the school district.

And be it further resolved, that a copy of this resolution be forwarded to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Presidnt Pro Tempore of the Senate, and the members of the General Assembly.

1956 EXTRA SESSION

THE GENERAL ASSEMBLY OF NORTH CAROLINA

H. R. 8 RESOLUTION 4

A joint resolution of condemnation and protest against oppressive usurpation of power by the Supreme Court of the United States, calling upon the several States of the Union and the Congress of the United States to bring to an end this tyrannical usurpation of power.

Whereas, the General Assembly of North Carolina recognizes its allegiance to the Constitution and Government of the United States and is ever mindful of its responsibility to defend the Constitution of the United States against every attempt, foreign or domestic, to undermine the dual structure of this Union or to destroy those fundamental principles embodied in the written Constitution of the United States; and

Whereas, the founders of this great nation, fearful of the tyranny that naturally and always follows the unrestricted concentration of governmental power, secured the passage of the "Bill of Rights," consisting of the first ten amendments to the Constitution; and

Whereas, the Ninth and Tenth Amendments to the Constitution expressly and explicitly limit the Federal Government to specific powers delegated to it by the terms of the compact and reserved to the States and their people all other powers, unless specifically prohibited by it to the States; and

Whereas, the General Assembly of North Carolina is ever mindful of the admonition that "frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of Liberty"; and

Whereas, the Constitution is a solemn compact between the States, and the Federal Government is the creature born of that compact from sovereign powers inherently residing in the States and their people but delegated solely for the purposes clearly and manifestly set forth in the Constitution; and

Whereas, the methods and procedures for amending the Constitution of the United States are distinctly and plainly stated in Article V of that instrument in these words: "The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress"; and

Whereas, the Constitution of the United States may be validly amended only in the manner prescribed by the Constitution itself, and the United States Supreme Court has never had, does not now have, and should never possess, the power and authority to amend the Constitution; and

Whereas, neither the judicial power granted the United States Supreme Court in Article III of the Federal Constitution nor such appellate jurisdiction as Congress has conferred, or may confer, can constitute that Court the dominant and ultimate authority with the power of determining without regard for the Constitution what is and is not in the best interest of the Nation; and

Whereas, by its decision of May 17, 1954, the Supreme Court of the United States, in seeking to establish itself as the dominant and ultimate policy-setting agency of

the Nation, in effect amended the Constitution by interpreting the Fourteenth Amendment in a manner clearly contrary to the well-settled construction of that Amendment; and

Whereas, the State of North Carolina in ratifying the Fourteenth Amendment did not intend to delegate to the Federal Government the power to deny to the States the inherent right to operate racially separate schools; and when the Fourteenth Amendment was ratified, there were thirty-seven States in the Union, and twenty-three of those states had segregated schools and others had no public schools at all; and the Congress which proposed the Fourteenth Amendment established segregated schools in the District of Columbia; and both State and Federal courts, without exception, beginning with a decision of the Massachusetts' Supreme Court in 1848, and subsequently followed by the courts of Connecticut, New York, Illinois, Michigan, Indiana, Minnesota, New Jersey, Ohio, Pennsylvania and others, recognized the power of the States to operate a system of separate public schools; and

Whereas, the General Assembly of North Carolina relying upon the United States Supreme Court's own interpretation of the Fourteenth Amendment and the numerous and uncontradicted decisions of other Federal and State courts established and developed a segregated public school system; and North Carolina properly assumed that it could rely upon congressional action and earlier court decisions as is demonstrated by the language of the Supreme Court of the United States in Myers v. United States (1927): ". . . when Congress, after full consideration and with the acquiescence and long practice of all branches of the government, has established the construction of the Constitution, it may [not] by its mere subsequent legislation reverse such construction. It is not given power by itself thus to amend the Constitution;" and

Whereas, the General Assembly of North Carolina, mindful that powers assumed by the Supreme Court in one field today will become precedents for further assumption of power in other fields tomorrow and recognizing, as did the founders of this great nation, that tyranny naturally and always follows naked power; and the Supreme Court of the United States has recently denied to the States the right to have laws of their own to deal with subversion or espionage against the nation; and the states have been denied the right to dismiss individuals from their employment who refuse to answer questions concerning their connections with communism by invoking the Fifth Amendment; and the fears of Thomas Jefferson are rapidly becoming realities—"The great object of my fear is the Federal Judiciary. That body, like gravity, ever acting, with noiseless foot, and unalarming advance . . . is engulfing insidiously the special governments into the jaws of that which feeds them"; and

Whereas, there is implicit in these recent decisions of the United States Supreme Court a most grievous and deplorable disrespect for declared and established law; and

Whereas, by reason of this disrespect for declared and established law on the part of the United States Supreme Court, the people's faith and confidence in the judicial ability and temperament and judicial self-restraint of our highest federal judges has been most severely shaken; and

Whereas, the General Assembly of North Carolina recognizes its solemn duty to help alert the Nation to the fact that the Supreme Court of the United States, by interpretations and constructions of the Constitution, encroaches upon the reserved powers of the states; and our failure to discharge the solemn duty to alert our people and the Nation would constitute passive acquiescence in dangerous precedents aimed at undermining our democratic form of government:

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the States have never granted to the United States Supreme Court, or any other court, the power to amend the Federal Constitution, nor does the Federal Government possess any powers not delegated to it by the Constitution of the United States.

Sec. 2. That the grievous and deplorable disrespect for the declared and established law of the land on the part of the United States Supreme Court constitutes a most dangerous and oppressive usurpation of the power of the Congress and the rights of the States and the people, and a grave threat to constitutional government in these United States.

Sec. 3. That the State of North Carolina does condemn and protest the oppressive usurpation of power by the ever be preserved.

Sec. 4. That the State of North Carolina does call upon all States and the Congress of the United States to bring to an end this tyrannical usurpation of power by the United States Supreme Court and to prevent now and in the future other and further encroachment upon the reserved powers of the States and the rights of the people, to the end that constitutional government shall ever be preserved.

Sec. 5. That a copy of this Resolution be sent to the Governor and Legislature of each of the States, to the presiding officers of each of the Houses of the Congress of the United States, to North Carolina's representatives and senators in the Congress, to the President of the United States, and to the several judges of the United States Supreme Court.

Sec. 6. This Resolution shall be in full force and effect from and after its adoption.

In the General Assembly read three times and ratified, this the 27th day of July, 1956.

INDEX

TO THE RECORD OF TESTIMONY BEFORE THE JOINT LEGISLATIVE COMMITTEE CONDUCTING AN INVESTIGATION OF THE BOARD OF PARDONS and EXHIBITS.

INDEX

TO THE RECORD OF TESTIMONY BEFORE THE JOINT LEGISLATIVE COMMITTEE CONDUCTING AN INVESTIGATION OF THE BOARD OF PARDONS

PURSUANT TO

HOUSE RESOLUTION No. 1, PRINTER'S No. 8

AND

LOCATION OF EXHIBITS

Compilation: James K. Arnold, Esq., Associate Council for the Committee.

TOPICAL INDEX

RECORD OF TESTIMONY BEFORE THE JOINT LEGISLATIVE COMMITTEE CONDUCTING AN INVESTIGATION OF THE BOARD OF PARDONS.

INITIAL HEARING

February 19, 1957
Pages 1 to 27

1. Frank R. Hean, Secretary, Board of Pardons

Page 2: Direct examination. Testimony, introductory, in relation to the forms, practices, and procedures of the Board of Pardons hearings considerations, and actions, including presentation of Board rules.

Page 24: Cross-examination.

VOLUME I

February 27, 1957
Pages 1 to 160

1. Frank R. Hean, Esq.
   - Page 6: Direct examination.
   - Page 8: Board does not strictly follow its own rules.
   - Page 10: Rule requiring "new facts" for a rehearing is strictly followed.
   - Page 21, 22: Board is a constitutional body which makes its own rules and can except to them in its discretion.
   - Page 48: Same as immediately above.
   - Page 49 to 52: Advertising, as "due public notice."
   - Page 61: Joseph McSorley application.
   - Page 105: Testimony of one hearing never transcribed.
   - Page 113: Cross-examination.
   - Page 128: Redirect examination.
   - Page 131: Recross-examination.
   - Page 132: Redirect examination.
2. J. Harold Hughes, First Assistant District Attorney, Delaware County
   - Page 134: Direct examination.
   - Page 136:, 137: Contends one transcript of hearing is incomplete.

VOLUME II

February 28, 1957
Pages 161 to 324

1. Arthur P. Bretherick, Judge, Court of Common Pleas, Delaware County
   - Page 165: Direct examination.
   - Page 180: McSorley et al cases.
   - Page 241: Cross-examination.
2. William R. Toal, Judge, Court of Common Pleas, Delaware County
   - Page 283: Direct examination.
   - Page 286: Contends received no notice of rehearing in McSorley etal cases.
   - 309: Cross-examination.

VOLUME III

March 4, 1957
Pages 325 to 442

1. Frank R. Hean, Esq.
   - Page 340: Redirect examination, in relation to the Erie County bribery cases.
   - Page 373: As to informality of applications for rehearing or reconsideration.
   - Page 429: Statement that no records or minutes are kept of the Board's executive sessions, and that witness' personal notes have been destroyed.
   - Page 431: Same as immediately above.
   - Page 435: Board of Pardons occasionally recommends commutation before Board of Parole has established a parole plan.

VOLUME IV

March 6, 1957
Pages 443 to 701

1. Frank R. Hean, Esq.
   - Page 455: Redirect examination; statement that no record is kept of date and time of Board's action or executive sessions.
   - Page 460: Same as immediately above.
   - Page 468: Status of rehearings in relation to constitutional "due public notice" requirement.
   - Page 489: Recross-examination.
   - Page 504: Redirect examination.
   - Page 506: Recross-examination.
2. Damien McLaughlin, Assistant District Attorney, Erie County
   - Page 525: Direct examination.
   - Page 526: Received notice that Flatley was commuted to one year, and thereafter was asked if he objected to a further reduction so as to be released in time for Christmas.
   - Page 555 to 557: Transcript of September Sessions, 1955, is now transcribed, but in part only.
   - Page 571 to 575: Testimony relative to Ben Kaufman application, and representation by Assistant City Solicitor of Erie, Pennsylvania.
3. Frank R. Hean, Esq.
   - Page 579: Redirect examination, as to erasures on recommendations, and charters or warrants.
   - Page 580: Recross-examination.
4. Harold J. Sullivan, Assistant Secretary of the Senate, former executive editor of the Erie Daily Times.
   - Page 581: Direct examination.
   - Page 582: Allegation of phone call from Arthur Gardner, Mayor of Erie, in regard to alleged call to Gardner from Governor Leader.
   - Page 585: Cross-examination.
5. Herbert J. Johnson, Jr., District Attorney, Erie County
   - Page 587: Direct examination.
   - Page 594: As to effect on community of commutations in the Erie County bribery cases.
   - Page 608: Erie vice squad sold tickets to political fund-raising dinner.
   - Page 612: Cross-examination.
   - Page 625: Redirect examination.
   - Page 629: Ben Kaufman case.
   - Page 635: Recross-examination.
6. Frank R. Hean, Esq.
   - Page 641: Redirect examination, as to Ben Kaufman case.
   - Page 668: Board considers requests for rehearing in behalf of an applicant from anyone, not limiting them to attorneys of record.
   - Page 690: Recross-examination.
   - Page 693: Redirect examination.
   - Page 694: Recross-examination.
   - Page 697: Redirect examination.

VOLUME V

March 13, 1957
Pages 702 to 959

1. Frank R. Hean, Esq.
   - Page 716: Redirect examination, as to Philip John Mollica application.
   - Page 736: Statement that not all special listing actions are included in Board minutes.
   - Page 737: Letter from a U. S. Congressman.
   - Page 743: Board Rule 12-A, requiring all correspondence to Board or its members to be filed with the Board.
   - Page 759: William Edward Geiger case, as to Board policy in regard to commutation of life sentences.
   - Page 768: Recross-examination.
   - Page 778: Redirect examination.
2. Burton Randolph Laub, Judge, Erie County
   - Page 787: Direct examination.
   - Page 788: Public reaction of Flatley etal commutations.
   - Page 791: Recommendations and suggestions.
3. Elmer L. Evans, President Judge, Erie County
   - Page 858: Direct examination, as to Ben Kaufman case.
   - Page 861: Flatley etal cases.
4. Arthur J. Gardner, Mayor, Erie, Pennsylvania
   - Page 891: Direct examination.
   - 893: Denial of call from Governor Leader, contravening testimony of Sullivan.
   - Page 895: Cross-examination.
   - Page 912: Sullivan allegedly took money.
5. Harold J. Sullivan
   - Page 932: Redirect examination, contravening Gardner testimony.

VOLUME VI

March 27, 1957
Pages 960 to 1247

1. Roy E. Furman, Lieutenant Governor, Commonwealth Pennsylvania
   - Page 965: Direct examination.
   - Page 970: Statistical study as to number of commutations, etc.
   - Page 988: Erie County cases.
2. Robert L. Trescher, Esq., Philadelphia County
   - Page 1032: Direct examination.
   - Page 1033: McSorley etal cases.
   - Page 1072: Cross-examination.
   - Page 1094: Redirect examination.
   - Page 1096: Recross-examination.
3. Roy E. Furman
   - Page 1106 Redirect examination.
   - Page 1109: Recross-examination.
   - Page 1111: Philip John Mollica case.
   - Page 1120: Ben Kaufman case.
   - Page 1127: Thaddeus John Skalski case, as to Parole Board and Board of Pardons liaison.
   - Page 1141: Erie County cases.
   - Page 1155: Change of rules and regulations.
   - Page 1166: Redirect examination.
   - Page 1169: Recross-examination.
4. Henry E. Harner, Esq., Dauphin County
   - Page 1181: Direct examination.
   - Page 1182: Bowman Francis Kennedy case, as to telephone call from David S. Kohn, Esq.
   - Page 1185: Cross-examination.

VOLUME VII

March 28, 1957
Pages 1248 to 1464

1. Frank R. Hean, Esq.
   - Page 1251: Redirect examination, as to Board statistical study.
2. James K. Arnold, Esq., Associate Counsel for the Committee
   - Page 1255: Direct examination.
   - Page 1256: As to alleged discrepancies in Board statistical study.
   - Page 1264: Cross-examination.
3. Victor H. Wright, Esq., Deputy Attorney General, Commonwealth of Pennsylvania.
   - Page 1273: Direct examination.
   - Page 1275: Willard Hartill case and letters.
   - Page 1282: Cross-examination.
   - Page 1288: Redirect examination, as to Charles E. Gretz, Jr., case and letters.
   - Page 1289: Recross-examination.
   - Page 1292: Redirect examination.
   - Page 1293: Recross-examination.
   - Page 1295: Bendetto DeCave case and letters.
   - Page 1300 Redirect examination.
   - Page 1306: Recross-examination.
   - Page 1310: Redirect examination, as to Charles Goldfine case and letters.
   - Page 1311: Recross-examination.
   - Page 1315: Floy C. Jones, Jr., case and letters.
   - Page 1322: Redirect examination.
   - Page 1323: Recross-examination.
   - Page 1323: Frank Raymond Noggle case and letters.
   - Page 1325: Recross-examination.
   - Page 1327: Benny Daidone case and letters.
   - Page 1328: Redirect examination.
   - Page 1329: Recross-examination.
   - Page 1330: Sigmund Wolan case and letters
   - Page 1330: Redirect examination.
   - Page 1332: Recross-examination.
   - Page 1336: Paul Francis Perry case and letters.
4. J. Harold Hughes, Esq.
   - Page 1354: Direct examination, as to Caserta case
   - Page 1359: Recross-examination.
   - Page 1359: Redirect-examination.
   - Page 1360: McSorley etal cases.
   - Page 1381: Recross-examination.
   - Page 1381: Redirect examination.
   - Page 1381: Recross-examination.
   - Page 1382: Redirect examination.
   - Page 1386: Recross-examination.
   - Page 1399: Redirect examination.

Page: 1402: Recross-examination.
Page 1405: Redirect examination.

5. Charles F. G. Smith, Esq., Philadelphia County
Page 1413: Direct examination.
Page 1442: Cross-examination.
Page 1443: Redirect examination.
Page 1445: Recross-examination.
Page 1446: Redirect examination.
Page 1452: Recross-examination.
Page 1455: Redirect examination.
Page 1455. Recross-examination.

VOLUME VIII

April 1, 1957
Pages 1465 to 1581

1. James W. Evans, Esq. Associate Counsel for the Committee
Page 1472: Direct examination, as to Paul L. Sheaffer case.
Page 1486: Cross-examination.
2. David S. Kohn, Esq., Chief Counsel for the Committee
Page 1497: John Derkacz case.
3. J. Harold Hughes, Esq.
Page 1509: Louis DeVito case.
4. Frank R. Hean, Esq.
Page 1561: Redirect examination.
Page 1562: Louis DeVito case.
Page 1577: Recross-examination.

VOLUME IX

April 3, 1957
Pages 1582 to 1686

1. Joseph H. Miller, Reporter, Philadelphia Inquirer
Page 1589: Direct examination, as to article appearing in witness' newspaper.
2. Thomas D. McBride, Esq., Attorney General, Commonwealth of Pennsylvania
Page 1600: Direct examination, contravening material appearing in aforesaid newspaper article.
3. Frank R. Hean, Esq.
Page 1607: Redirect examination, as to Louis DeVito case.
4. Thomas D. McBride, Esq.
Page 1619: Redirect examination, as to Louis DeVito case.
Page 1662: Recommendations and suggestions.

VOLUME X

April 4, 1957
Pages 1687 to 1862

1. James K. Arnold, Esq.
Page 1691: Recross-examination as to discrepancies in Board statistical studies.
2. James A. Finnegan, Secretary of the Commonwealth, Commonwealth of Pennsylvania
Page 1703: Direct examination.
Page 1704: As to Charles F. G. Smith, Esq., letter.
Page 1714: Cross-examination.
Page 1774: John Philip Mollica case.
3. Victor H. Wright, Esq.
Page 1786: Redirect examination, as to Charles Dilks case and letters.
Page 1790: James Joseph Nemeth case and letters.
Page 1796: Horace Murray case and letters.
Page 1798: John Joseph McGettigan, case and letters.
Page 1800: Donald Nathan Neidig case and letters.
Page 1803: John Kaminsky case and letters.
Page 1811: Stanley Curry, Jr., case and letters.
Page 1817: William Edward Snyder case and letters.
4. David S. Kohn, Esq.
Page 1830: Redirect examination, as to Stephen S. Terlesky case.
Page 1834: Peter Prenni case.
Page 1838: Anthony Baerchus case.
Page 1839: Russell Storm case.
5. Frank R. Hean, Esq.
Page 1841: Redirect examination, as to letters to Board from U. S. Congressmen.
6. James W. Evans, Esq.
Page 1844: Redirect examination, as to cases of John Donald Greenawald, John Vincent Franklin and John Korkabecz, in which members voted but did not sit at the hearings.
Page 1850: Harry Mayo case.
Page 1852: Theodore Elliott case.

VOLUME XI

April 10, 1957
Pages 1863 to 2216

1. James W. Evans, Esq.
Page 1874: Redirect examination, as to the Dan McNeill subpoena matter.
Page 1895: Recross-examination.
Page 1879: Henry E. Harner, Esq., outburst.
2. Genevieve Blatt, Esq., Secretary of Internal Affairs, Commonwealth of Pennsylvania.
Page 1898: Direct examination.
Page 1899: David Darcy and related cases.
Page 1932: McClosky brought brief or opinion to witness' office.
Page 2000: Cross-examination.
Page 2005: Death house conditions.
3. Alexander L. Suto, Esq. Allegheny County
Page 2029: Direct examination, in relation to the role of Charles J. Margiotti, Esq., deceased, in the Darcy case.
Page 2036: Cross-examination.
4. Edward Biester, President Judge, Court of Common Pleas, Bucks County
Page 2040: Direct examination.
Page 2041: As to the Darcy trial.
Page 2055: Recommendations and suggestions.
Page 2070: Cross-examination.
Page 2086: McBride statement as to competency of the late Achey, Esq., Darcy's trial counsel.
5. Donald W. VanArtsdalen, District Attorney, Bucks County
Page 2106: Direct examination.
Page 2107: Darcy et al cases.

Page 2134: Cross-examination.

6. Margaret C. Gordon
   Page 2150: Direct examination.
   Page 2151: As to obtaining Margiotti for Darcy counsel.
7. Marian R. Ford
   Page 2162: Direct examination.
   Page 2163: Darcy case.
   Page 2166: Related expenditures.
   Page 2174: Witness destroyed all correspondence with Margiotti.
   Page 2198: Cross-examination.

VOLUME XII

April 11, 1957
Pages 2217 to 2330

1. Matthew H. McCloskey
   Page 2220: Direct examination, as to Darcy case.
   Page 2225: Distribution of court opinions to members of the Board of Pardons.
   Page 2239: Cross-examination.
2. J. Dress Pannell, Esq., Dauphin County
   Page 2241: Direct examination.
   Page 2242: Darcy case.
   Page 2255: Cross-examination.
3. Norton Witkins, Esq., Philadelphia County
   Page 2256: Direct examination.
   Page 2257: Darcy case.
   Page 2291: Cross-examination.
4. Frank R. Hean, Esq.
   Page 2300: Redirect examination, as to Darcy case.
5. James W. Evans, Esq.
   Page 2313: Redirect examination, as to service of subpoena on Richard Heagy.
6. James K. Arnold, Esq.
   Page 2314: Redirect examination, as to service of subpoena on David Randall.

VOLUME XIII

April 22, 1957
Pages 2331 to 2510

1. Major Carl G. Conway, State Penitentiary Guard, Rockview
   Page 2342: Direct examination.
   Page 2344: Situation of Darcy, Zeitz, and Foster in the death house.
   Page 2353: Cross-examination.
   Page 2370: Redirect examination.
   Page 2372: As to unfounded belief among prisoners in relation to influential attorneys.
2. Arthur T. Prasse, Commissioner of Correction
   Page 2379: Direct examination.
   Page 2381: Darcy etal circumstances.
   Page 2391: Cross-examination.
   Page 2392: Redirect examination.
   Page 2394: Recross-examination.
   Page 2411: Redirect examination.
   Page 2414: Recross-examination.
3. William L. Jacks, Board of Parole Statistician
   Page 2420: Direct examination.
   Page 2421: Statistical studies.
   Page 2428: Cross-examination.
4. Dr. Kenneth B. Taylor, Deputy Commissioner for Treatment, Bureau of Correction
   Page 2430: Direct examination.
   Page 2431: Effect of existence of Board of Pardons on treatment program.
   Page 2439: Cross-examination.
   Page 2449: Placement and disposition of Darcy, Zeitz, and Foster.
5. Henry E. Harner, Esq.
   Page 2452: Redirect examination; denial of political influence generally.
6. Roy E. Furman
   Page 2454: Redirect examination, as to signing of Darcy recommendation and vote thereon.
7. Frank R. Hean, Esq.
   Page 2457: Redirect examination.
   Page 2458: As to current psychiatric reports in capital cases.
   Page 2466: Caesar Ricci case, in which Governor's signature predated Board recommendation.
8. David S. Kohn, Esq.
   Page 2469: Redirect examination, as to Frank Ciraolo case, in which Woodside was alleged by Gene D. Smith to have persuaded Governor Fine to ignore Board recommendation.
9. James W. Evans, Esq.
   Page 2487: Redirect examination, as to Lester E. Gore case.

VOLUME XIV

April 25, 1957
Pages 2511 to 2677

1. Richardson Dilworth, Mayor, City of Philadelphia
   Page 2514: Direct examination, as to Lester E. Gore case.
2. Dr. Kenneth E. Taylor
   Page 2537: Redirect examination.
   Page 2542: Placement and disposition of Darcy.
   Page 2555: Number of death sentences in the last 42 years and number actually executed.
3. Joseph Nissley, Esq., Dauphin County
   Page 2569: Direct examination; witness was formerly Secretary to the Board of Pardons.
   Page 2569: Thomas Wheatley, Sr., case.
   Page: 2587: Parole Board refused to honor recommendation of Board of Pardons.
   Page 2595: Cross-examination.
   Page 2610: Redirect examination, as to procedure of prior Boards of Pardon.
   Page 2616: Recross-examination.
   Page 2617: Redirect examination.
4. Edward M. Satterthwaite, Judge, Court of Common Pleas, Bucks County
   Page 2619: Direct examination, as to Wheatley case.
   Page 2626: Darcy case.
5. Donald W. VanArtsdalen, Esq.
   Page 2634: Redirect examination, as to Wheatley case.

6. Paul J. Brenan, President, Bucks County Chiefs of Police Association
Page 2637: Wheatley case.
7. John M. DesRochers, Secretary, Board of Parole
Page 2640: Direct examination.
Page 2641: Wheatley case.
8. Joseph Nissley, Esq.
Page 2657: Recross-examination, as to special listings.
Page 2663: Benny Daidone case.

VOLUME XV

April 29, 1957
Pages 2678 to 2807

1. David S. Kohn, Esq.
Page 2681: Redirect examination, as to Bowman Francis Kennedy case in respect of witness' telephone conversation with Harner.
Page 2686: Communication from Governor Leader's office as to date and time Darcy etal commutations were received and signed.
2. Austin A. Meehan
Page 2688: Direct examination.
Page 2689: Lester E. Gore case.
Page 2691: Witness went to see Board members on behalf of Gore.
Page 2699: Witness did same thing as immediately above in several other cases.
Page 2701: Cross-examination.
Page 2703: Same as immediately above.
Page 2707: John M. McDevitt, Sr., dismissal.
3. Frank R. Hean, Esq.
Page 2712: Redirect examination, as to John Francis McShane case.
4. James A. Finnegan
Page 2758: Redirect examination, as to McShane case.
Page 2768: Mrs. Ruby Costello accusation against Hean arises.
Page 2773: Hean letters to Mrs. Costello.
Page 2782: Letter from Assistant District Attorney, Philadelphia County, Reed to Board, and Hean reply to Reed.
5. James W. Evans, Esq.
Page 2794: Redirect examination, as to Mrs. Costello matter.
6. Frank R. Hean, Esq.
Page 2801: Redirect examination, as to denial of Mrs. Costello accusation.

VOLUME XVI

May 1, 1957
Pages 2808 to 2832

1. James W. Evans, Esq.
Page 2811: Redirect examination. as to Mrs. Costello subpoena.
Page 2814: Recross-examination.
2. Leslie Jackson, Sergeant, Pennsylvania State Police
Page 2815: Direct examination, as to Mrs. Costello subpoena matter.
3. Russell Knies, Lieutenant, Pennsylvania State Police
Page 2817: Direct examination, as to Mrs. Costello subpoena matter.
Page 2823: Cross-examination.
Page 2825: Statements of Committee Members and the Attorney General.

EXHIBITS

Number and Description	Location
Exhibit No. 1 —"Rules of the Board of Pardons"	Page 7
Exhibit No. 2 —"Board of Pardons Changes" ...	Page 7
Exhibit No. 3 —Letter dated February 18, 1957, to Hon. Thomas D. McBride, together with attached letter dated February 19, 1957, to Hon. Edwin W. Tompkins	Page 58
Exhibit No. 4 —Statement of Record to the Grand Jury of Delaware County by Arthur P. Bretherick, dated March 5, 1956	Page 173
Exhibit No. 5 —Statement of Record to the Grand Jury of Delaware County by Arthur P. Bretherick dated March 8, 1956	Page 173
Exhibit No. 6 —Letter dated August 11, 1955, to Board of Pardons	Page 259
Exhibit No. 7 —Record of Delaware County cases before Board of Pardons	Page 280
Exhibit No. 8 —Letter dated August 3, 1956, to Board of Pardons	Page 280
Exhibit No. 9 —Letter dated September 13, 1955, to Board of Pardons	Page 285
Exhibit No. 10—Six-page memorandum	Page 506
Exhibit No. 11—Letter dated January 6, 1956, to Board of Pardons	Page 606
Exhibit No. 12—Memorandum dated August 30, 1956, to all Board members ..	Page 684
Exhibit No. 13—Letter dated August 2, 1956, to Hon. Roy E. Furman	Page 684
Exhibit No. 14—Memorandum dated August 10, 1956, to Frank R. Hean	Page 684
Exhibit No. 15—Letter dated May 29, 1956, to Hon. Roy E. Furman together with attached letter dated June 11, 1956, to Rabbi Aaron Decter	Page 685
Exhibit No. 16—Letter dated June 4, 1956, to Frank R. Hean, together with letter dated June 7, 1956, to Rabbi Abraham B. Shoulson ..	Page 685
Exhibit No. 17—Letter dated June 1, 1956, to Frank R. Hean, together with letter dated June 7, 1956, to Rabbi Aaron Decter	Page 685, 686

Exhibit No. 18—Letter dated October 14, 1955, to Board of Pardons ..... Page 686

Exhibit No. 19—Letter to David S. Kohn, Esq., dated February 13, 1957 ..... Page 715

Exhibit No. 20—Letter to Board of Pardons, dated May 1, 1952 ..... Page 724

Exhibit No. 21—Letter to Board of Pardons, dated August 22, 1955 ..... Page 724

Exhibit No. 22—Group of letters read ..... Page 748

Exhibit No. 23—Compilation of cases before the Board of Pardons, January 1953 through December 1956 ..... Page 972

Exhibit No. 24—Recommendations of Judges and District Attorneys for January 1953 through December 1954 . Page 1106

Exhibit No. 25—Recommendations of Judges and District Attorneys for February 1955 through December 1956 ..... Page 1106

Exhibit No. 26—Rehearing Schedule and Certificate taken thereof by Frank R. Hean .....Page 1106

Exhibit No. 27—Photostat entitled "Delaware—March, 1956" ..... Page 1109

Exhibit No. 28—Letter from Judge Harold L. Ervin, dated March 6, 1957 .. Page 1365

Exhibit No. 29—Letter from Joseph S. Clark, Jr., dated January 27, 1956 .. Page 1414

Exhibit No. 30—Letter from Charles F. G. Smith, Esq., dated March 29, 1957 .... Page 1469

Exhibit No. 31—Letter from Judge Arthur P. Bretherick, dated March 21, 1957 .....Page 1517

Exhibit No. 32—Letter from J. Harold Hughes, Esq., dated March 20, 1957 ...Page 1517

Exhibit No. 33—Letter from Frank R. Hean, dated September 11, 1956 .... Page 1564

Exhibit No. 34—Subpoena to Dan McNeill ... Page 1874

Exhibit No. 35—Letter from Judge Curtis Bok Page 1932

Exhibit No. 36—Packet of 11 letters from Jurors ..... Page 2128

Exhibit No. 37—Series of 5 letters, bearing the letterhead of "Witkin and Egan" ..... Page 2199

Exhibit No. 38—Four-page study, "Commutation Cases for 1953, 1954, 1955, and 1956" .....Page 2430, 2510

Exhibit No. 39—Listing of Capital Cases before the Board of Pardons from 1915 to present ..... Page 2560

Exhibit No. 40—Correspondence file relating to John Francis McShane case .. Page 2716

Exhibit No. 41—Letter from Frank R. Hean, dated August 23, 1956 ..... Page 2776

Exhibit No. 42—Letter from Frank R. Hean, dated February 28, 1957 ..... Page 2778

Exhibit No. 43—Letter from Thomas M. Reed, Esq., dated April 3, 1957 ..... Page 2782

Exhibit No. 44—Letter from Frank R. Hean, dated April 5, 1957 ..... Page 2785

Exhibit No. 45—Certified copy of subpoena of Ruby W. Costello, containing signature of James W. Evans, Esq. ..... Page 2811

Exhibit No. 46—Certified copy of subpoena of Ruby W. Costello, containing signature of Leslie Jackson .. Page 2816

— Page 16 —

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

AT HARRISBURG, PENNSYLVANIA

DATE FEBRUARY 27, 1957

VOLUME 1

PATRICIA L. SAYER
1625 GREEN STREET
HARRISBURG, PENNA.

CEDAR 2-2832

Proceedings of the Pardons Board Investigating Committee taken at an open session thereof held in the Caucus Room of the House of Representatives, State Capitol Building, Harrisburg, Pa., at 11:00 a. m. on February 19, 1957, all members of said joint committee of both House and Senate being present, with Chairman Tompkins presiding.

Testimony of Frank R. Hean, Secretary of the Pardon Board, in and for the Commonwealth of Pennsylvania

APPEARANCES:

Frank R. Hean, Secretary of the Pardon Board

Thomas D. McBride, Attorney General

David S. Kohn, Counsel employed by the Committee

James W. Evans, Associate Counsel employed by the Committee

Members of the Committee:

Rep. Edwin W. Tompkins, Chairman
Rep. Clarence D. Bell
Rep. Philip Lopresti

Sen. Joseph J. Yosko

Sen. William Z. Scott
Sen. Robert D. Fleming

Proceedings of the Pardons Board Investigating Committee taken at open session thereof held in the Caucus Room of the House of Representatives, State Capitol Building, Harrisburg, Pa., at 11:00 a. m. on February 19, 1957, all members of said joint committee of both House and Senate being present, with Chairman Tompkins presiding.

APPEARANCES:

Frank R. Hean, Secretary of the Pardons Board.

Thomas D. McBride, Attorney General

David S. Kohn, Counsel employed by the Committee

James W. Evans, Associate Counsel employed by the Committee

Members of the Committee

CHAIRMAN TOMPKINS: We are here this morning for one purpose only. We don't propose at this time to start any inquiry into the subject of our Committee, but we want to get from the Secretary of the Pardons Board the procedures involved in getting a case before the Pardons Board and what happens after it gets there. This is merely for purpose of information, and not for any inquiry into any particular case. Mr. McBride, you are appearing—

MR. McBRIDE: The Attorney General, on behalf of Mr. Hean of the Pardon Board, the Governor, and any other officials of State Government whom under the law I am charged with the duty of representing.

CHAIRMAN TOMPKINS: Mr. Attorney General, at this time may we request that after this meeting this morning you meet with the Committee?

MR. McBRIDE: Splendid. I hope that will facilitate the investigation.

FRANK R. HEAN, Secretary of the Pardon Board, having appeared at the request of the Committee, being duly sworn by the Chairman of the Committee, testified as follows:

Q What is your name, please?
A Frank R. Hean.
Q You are a member of the Dauphin County Pardon Board?
A I am a member of the Dauphin County Pardon Board.
Q How long have you been Secretary of the Pardon Board?
A In this administration? Since May 1955.
Q And previously had you been Secretary of the Pardon Board?
A I had been.
Q When was that, and what date?
A In September of 1936 on through about February of 1940.
Q What are your duties in connection with the operation of the Pardon Board?
A In the processing of applications, the proper needs of what the action of the Board requires with respect to any application. Conduct inquiries, contact any parties interested (judges, penitentiaries), and anything else, any information of any agency that might help the Board in coming to a decision.
Q It is your duty, is it not, to retain all the files, the original application and all copies that come into your hands in any particular case?
A It is my duty to retain the original of all such papers.
Q Did you bring with you this morning papers and information—
A I was instructed to bring about seven.
Q Will you kindly pass them around?

(Mr. Hean hands members of the committee various papers)

Q These particular rules of the Pardon Board which you have just distributed—when were they written up?
A I think the date is on the Page 8. You will notice "1951". And then there is attached to it a sheet of paper with two additional amendments in writing.
Q These were adopted by the Pardons Board?
A Yes.
Q When were the applications for commutation adopted by the Pardon Board? If you know?
A I do not know. These were in existence at the time I moved in in May, 1955.
Q Can you tell us under what law or act the Pardon Board is constituted to act?
A It is under Constitutional provision. I believe it is Article 4. Section 9. of the Constitution.
Q How many of those can a man sign for reconsideration?
A We have once a year. That is, a year's interval must elapse between the application and the re-opening of an application.
Q Do you have in your records all applications to the Board of Pardons from January of 1952 to the present date?
A We do.
Q They are available to us?
A They are.
Q These applications are filed—nine copies, I think? Is that correct?
A Yes. Correct. Correct. An original and eight white copies.
Q The filing fee is fifteen dollars?
A That is correct.
Q Must an applicant have an attorney to file?
A No, sir.
Q Are these applications often made out by the prison authorities for a prisoner?
A Personally, I couldn't say so but I have that general impression—there are times when a prisoner gets assistance out of the Penitentiary office.
Q An officer—
A Usually a Parole Officer.
Q It is usually a Parole Officer? This application for commutation states briefly the crime?
A Yes.
Q And all accomplices which the defendant might have had?
A That is correct.
Q It also states the complete record of any crimes in the Commonwealth of Pennsylvania, or elsewhere?
A That is correct?
Q It requires the applicant to tell you where he will reside if he is pardoned?
A On the one page you will see applicant's record and employment.
Q This application also requires the applicant to give the names and addresses of his counsel?

A Yes.
Q And whether the fee has been received?
A That is correct.
Q In addition to the questions answered by the applicant, what other information is solicited before the file becomes complete for the hearing?
A One of the white copies is sent to the Trial Judge. If he is deceased, it will go to the present Judge of the County Court. A copy is also sent to the District Attorney. Also, a copy is sent to the Board of Parole. A copy is sent to the Penitentiary in which he is confined.
Q Will you explain to us, if you know, whether a copy is sent to the Board of Parole?
A They have a staff to investigate. A white one is sent to the parole agency and they make it their job to inquire into the basis of facts. It is sent to us in typewritten form.
Q In other words, the Parole Board has agents and they solicit information in connection with the application?
A That is correct.
Q From whom do they solicit that information?
A Judges, District Attorneys, individuals, victims, and the general feeling of the community they may chance—
Q Is that particular information on file?
A It is sent to us, yes.
Q You have it?
A Oh, yes, indeed.
Q You send to the District Attorney and Judges a copy of that information, and in addition to that, a copy of their comments?
A Yes.
Q A statement of their attitude?
A In many instances we have a reply in connection with their statements.
Q Are there any other papers filed?
A The Penitentiary gives a run-down as to what the man's conduct has been during the Penitentiary years. I presume, an expression of their opinion and general connection with him—whether he would be a good risk.
Q Will you tell us who usually completes those forms for the Penitentiary?
A I cannot tell you. I don't know.
Q Is it the Parole Officer?
A I am guessing when I say that.
Q Now, in addition, isn't it a fact there are usually filed along with the application by the applicant letters from people who are interested in him?
A Yes, that is correct.
Q And a letter stating they will give him a job if he is released?
A In many instances. Not always.
Q Is that a requirement of the Pardon Board—that he have a job before being released?
A No, that is not required. He is not released from the Penitentiary until the Parole Board has checked, and if it was not satisfactory they do not release him.
Q I think that it might be well for you to clarify for us the functions of the Pardon Board and the Parole Board.
A The Pardon Board brings the prisoner to the door of the Penitentiary. We bring him there. And the Parole Board picks him up at the Penitentiary door. In other words, we commute the sentence.
Q And supervise?
A And supervise him for the maximum of his sentence.
Q Does the Parole Board ever take original justice out of the Pardon Board—being connected with it?
A No. sir. I understand they are not permitted under the law.
Q Is there anything else you can think of to complete a file before the matter is set before the Pardon Board?
A I have brought with me what might be of interest, from the time—from the date of the hearing (which we will have one this afternoon)—and that is an analysis sheet prepared by me. That is boiled down —That is the analysis sheet.
Q This is a sheet usually made up?
A By myself.
Q For each member of the Pardon Board?
A For each member of the Pardon Board. That is more of a break-down, a boiling down, which is set before them at the time of the discussion.
Q Previous to the hearing, do you give a writing—a notice—to the applicant of the date, time and place of hearing?
A There is a date published, and that is distributed at least two weeks before the hearing—in a local newspaper—two weeks prior to the hearing—of the person coming before the Board—who was sentenced from that particular county. Not every weekly newspaper publication. In a newspaper of general circulation, together with the man's paper, if there is one such in the locality.
Q How is the Pardon Board made up?
A .....Lieutenant Governor, Attorney General, Secretary of Internal Affairs, and the Secretary of the Commonwealth.
Q They all sit?
A They all sit, unless prevented by some extraordinary event. They attend the meeting, and sit.
Q Are notes of testimony taken at each hearing?
A We have no notes of testimony. If a District Attorney is present from any county, we have a record of what is said before the Pardon Board.
Q You have a stenographer who takes the statements made by the District Attorney in opposing?
A Or recommending.
Q And of the counsel for the applicant?
A That is correct.
Q And any relatives?
A Both cases. That is true.
Q Is that filed for consideration before they make a decision on a particular case?
A Not as a rule.
Q Is that particular testimony transcribed?
A It is transcribed, and we have it on file right now.
Q In cases where it isn't done (You say it is not done as a rule), the members of the Board must of necessity rely on—
A Their recollection is very fresh right after the session. We go into an executive session, and at that time those cases that are easily disposed of are handled, and those held for further study—But their recollection is very, very good.

Q Before they make a decision is there any further study of the case, or do they go into executive session right after the hearing?
A They go into executive session right after every hearing.
Q Are any notes of testimony taken?
Q No.
Q On the decision?
A That is right.
Q There are no minutes of the meeting?
A There is no—Of course, there is a report.
Q Is there a report?
A The report of the general attitude of the Board, the general impression of the Board, any recommendation, any information they feel that the members—
Q Is there any recommendation?
A There is a vote. Oh, yes.
Q That is made at the time?
A At the time the vote is taken.
Q And those that require further consideration—when do they consider those?
A We have cases under consideration on which I am directed to write letters to individuals and organizations. That is what we call "held under advisement."
Q Is there a transcript in those cases in which there is further discussion necessary?
A Not upon fact.
Q A further discussion?
A No. Only I mark them "Held under advisement."
Q Do you consider cases after you obtain the information? Are there records made of the discussions in the matter?
A No, sir. No record.
Q Isn't it a fact that quite often these cases "Held under advisement" have been held at least thirty to sixty days?
A Many times. That is right.
Q Now then, as far as further considering many of these particular cases—do you know what the custom of the Board is for refreshing their recollection on what anyone has said at the original hearing? Or, what the District Attorney said?
A When the notes are transcribed, occasionally they ask to see what one side or the other said, but most always they depend on their recollection.
Q Do they meet together, or decide individually?
A They meet together.
Q Where are those meetings held?
A In the chambers of the Supreme Court room.
Q Open meetings?
A No, sir.
Q Isn't it a fact that many times a counsel files an application, and where a prisoner files an application, he has no no way of knowing what data the institution—such as the Parole Board, Judge or District Attorney—gave the Board of Pardons that they might consider?
A Do I understand whether you mention the prisoner, or the attorney for the prisoner?
Q Either one.
A Either one might be denied.
Q The file is available to the prisoner, on what was said or they did?
A The files are open for inspection, and they have been.
Q Do you mean your files of the Pardon Board are completely open to see what the State's investigation say about it?
A In many instances. Some of it is confidential. Some of it is confidential. Some of it is not.
Q Confidential?
A Some men don't want to be quoted, I presume, because it is marked, "Confidential."
Q Who determines whether it is confidential, or not?
A I don't know. That is a very difficult queston to answer. I don't know the answer, myself. I do not determine.
Q You have a set policy on that?
A No. I have no set policy.
Q Has the Board a set policy upon divulging the contents of a file?
A All I know is that the matters on file are open to the inspection of interested persons.
Q Upon application to whom?
A Well, the attorney for the applicant.
Q I say, upon the application of whom? Who has to make the request for that?
A Say, you are asking this morning about a man named John Brown, and you are contemplating making an application in June, and you want to see what happened to any prior applications; you would come up to the Board and they would show you.
Q I am talking about current applications.
A The current applications wouldn't really be available, because technically they are in the hands of the Board. Say, the February meeting—all that material is in the hands of the Board. If you come up now, you wouldn't be able to see it; but after the session is closed, after the meeting today if you wanted to see it, it would be available.
Q Quite often the complaints you hear about are those situations where the Board relied upon information which wasn't available to the counsel or the applicant, and counsel or applicant has no way of checking its validity.
A I have no proof, mister, on that.
Q Have you received any complaints on the action of the Board?
A I have no complaints. Do you mean—voting?
Q Do you take part in judging?
A No.
Q Do they ever ask you questions?
A Why, certainly.
Q How long before the meetings do members of the Pardon Board receive these complete files?
A They are available about four to five days before the proceedings.
Q These reports are not—
A We have a representative file. We take photostatic copies.
Q Now then, after the applicant, or his counsel, has argued the case, what is the next step taken in that particular case?
A The Board then votes on whether they are recommending a pardon, or refuse, or some recommendation.
Q What happens then if they refuse?
A The results of the Board are sent to the applicant or his attorney, the District Attorney—
Q Penitentiary?
A The Penitentiary.
Q If the application is granted, what happens?

A When the application is granted, a charter or warrant is written up together with the results and sent to the Governor. First, signed by all the members of the Board, and then sent to the Governor for his approval.

Q Does that particular document show the vote of the Pardon Board?

A I have here a sample of it. We distribute among the members of the Board. If you care to look at them. Here is the recommendation for the— And the four members of the Board sign, if they wish.

Q The four members sign on there, and thereon is indicated the manner in which they voted?

A If they vote "No," it would be dissent, and if they voted "No" they wouldn't sign it. You have to have three members sign it.

Q They don't always vote in favor?

A Oh, no.

Q After the Governor gets it, do you know what his procedure is?

A His procedure is to sign on the line which is so indicated. We take it down to the Secretary of the Commonwealth office, and this gold seal of the Commonwealth is printed upon the charter or warrant.

Q You send it with the recommendations and the Board of Pardons file to the Governor's office?

A Yes.

Q Do you know who in the Governor's office considers these files?

A I do not.

Q Do you know whether or not there is any consultation between the Pardon Board members and the Governor before he acts on them?

A That I cannot answer because I do not know. I have never been present.

Q Have you ever been called by the Governor's office in connection with these cases?

A I have not.

Q Will you please inform us what is the function of the Pardon Board?

A The function of the Pardon Board is to recommend— In this State, as you know, the sentences are indeterminate sentences. That is, one to five, and so on. And a man, after being released from the Penitentiary, will request commutation from that Board, the Pardon Board, to consider recommending a shortening of the minimum sentence.

Q That might be three, or four, or a shortening of the original sentence?

A The reasons for that might be set forth. We have given our reasons for it when we submit it to the Governor, at length.

Q You have spoken of commutation of a maximum sentence of less than four years. What is the policy of the penal authorities in regard to a man serving a murder sentence? Does he have to be eligible for parole before receiving a limiting of his maximum?

A A man asking for commutation of his maximum sentence? I know of no policy of the Board with respect to such cases.

Q A man serving a term with a maximum of four— must he then go to the Pardon Board for commutation before he is released?

A At the end of two years, why, if he has conducted himself and has a good parole progress, he is then released.

Q He is released if he has a good parole progress without going before the Pardon Board?

A Yes.

Q Who has jurisdiction?

A The Parole Board, if he has a satisfactory progress.

Q Under the law, a man who has served less than the determinate sentence, if he does not meet with the requirements—

A I so understand that.

Q In other words, the Board of Pardons never releases a man. They only make available to the Parole Board his release?

A That is correct.

Mr. McBRIDE: It would help if I interpolate in these formal matters. I won't do it if you don't want me to, but I think it would help in these formal matters. Let's assume a sentence is for not less than two or more than four years; and then the Board of Parole has no power to release or parole until the expiration of the two-year period, because the Supreme Court has held the Constitution is inclusive of the sentence; but the Board of Pardons has the right after one and a half or two years to cut down by commuting the minimum sentence, at which time it shall be cut down; and then the Board of Parole has the right to consider parole after the end of a year and a half or a year, although they would not have had that right independent of the Board of Pardons; and in case where such a man has served two years of the minimum, he is eligible by the Board of Parole to be released thereafter without intervention of the Board of Pardons in any way whatever, and then would supervise him for the rest of the maximum period. If, after he is under release, he can apply for commutation of the maximum sentence, the only effect of which would be to release him from further parole supervision.

THE CHAIRMAN: I think some of the members are confused.

MR. SCOTT: When the Board of Pardons is commuting that sentence down to two, or something else, do they make it definite?

A That is right. Sometimes they commute it to the date upon which the Governor signs the commutation, sometimes they believe that the application is premature, and for reasons they do or don't say, "This man should not get out now, but we believe from information given by the court below or the District Attorney interested, that April 1st might be a good time," and then they can fix it as April 1st, independent of the Board of Parole.

EXAMINATION (CONTINUED) BY MR. KOHN:

Q Are these before the Board?

A Yes, sir.

Q Will you kindly explain the technical result of that?

A A copy identical to the form you have before you is furnished the Board. A fifteen-dollar fee is solicited. Usually, the person asking for pardon, and he very, very often makes his own plea before the Board for a pardon. That is, he is under sentence, in fact, and served a sentence in the Penitentiary and been out anywhere from two to twenty years, and he feels

he would like to have the stain of that removed from him, and he comes before the Board and asks for clemency, and if so approved the Governor may so approve.

Q Have there been such cases?

A I presume it could. I know of no possible person doing it, but I see no reason—

Q Will you kindly give us the legal effect of the pardon?

A Mr. Musmano has just recently written an opinion on that. But, I would say a pardon—It was a dissent.

Q Actually, there have been cases where men have been convicted of perjury and the Board pardoned them?

A No, it wouldn't actually remove the stain or majority opinion.

Q In many cases pardoning of them could, where holding Federal, State or other positions?

A That is the purpose of it, to remove some of the effects of the conviction.

BY MR. YOSKO: The action that was taken by the Pardon Board—is there an accompanying opinion that goes with it?

A Yes, the reasons, as we call it. You will see there a form in which we fill out the reasons why we are coming to the question of commutation of the sentence—whether a minimum or maximum. They are at length.

BY MR. YOSKO: Those opinions or reasons are on file in each case?

A Yes, sir.

BY MR. LOPRESTI: I note from the tops of these forms they were apparently printed in March, 1956?

A That is correct.

BY MR. LOPRESTI: Can you tell us whether or not they are a form used prior to that?

A Why, just a reprint.

BY MR. LOPRESTI: These forms are numbered in sheets?

A That is correct.

BY MR. LOPRESTI: And is there any fee, or are they given free?

A No, two dollars. In other words, the Board can be charged fourteen dollars.

BY MR. LOPRESTI: And that, you say, is in addition to the fee that is lodged—with the fifteen dollars?

A With the fifteen dollars, when that sheet is filed with us. This is audited every sixteen months, and every statement I have given seven sheets (sets) as well to the General Assembly.

BY MR. YOSKO: I am looking at this envelope.

A That is correct.

BY MR. YOSKO: I would like to have some explanation—

A That is under the Act of 1901 where prisoners get light sentences in county jails, and if they behave themselves they are given a minimum or flat sentence. That is the only factor involved under Act of 1901, known as the good behaviour act.

BY MR. YOSKO: I note that is a different form than the other form.

A Yes, sir. That is an envelope and filing reasons why we have the action. There are five copies made up of those reasons. We keep one, the Governor keeps one, two are preserved so that they are filed with the Clerk of the House and the Clerk of the Senate at the opening of the session for the two years prior.

BY THE CHAIRMAN: And others, the counsel and the District Attorney?

A No.

BY THE CHAIRMAN: They are not?

A No, but they are available if they want them—if you people ask for the reasons. They are left out.

BY THE CHAIRMAN: It is not part of your proceedings to send those reasons to the interested parties?

A No, sir. We never do.

BY THE CHAIRMAN: What is the quorum of the Pardon Board?

A Three.

BY THE CHAIRMAN: In a case with counsel, the counsel who represents an applicant before the Board—it appears on that information, does it not?

A That is correct.

BY THE CHAIRMAN: That information would include information as to whom the counsel was on the trial case or appeal of the case?

A It is supposed to. If you will look on the application you will see who represented along the—

BY THE CHAIRMAN: How many days before a hearing is the list closed?

A We close the list on the tenth day of any month. It can be heard two months following.

BY THE CHAIRMAN: In other words—about sixty days?

A Yes, sir.

BY THE CHAIRMAN: What the the periods of meeting? How often?

A Ten months a year. For two months, July and August, the Board doesn't sit.

BY THE CHAIRMAN: How many cases do you average?

A We have been running between seventy and ninety a month.

BY THE CHAIRMAN: How long a time does it take them to hear the applicants, say, on seventy cases?

A Well, it would take a day and a half.

BY THE CHAIRMAN: How many hours would that involve?

A Let's see. Like today, we start at one and probably run to four-thirty or five o'clock; and then tomorrow morning we start at nine-thirty, and I would guess we will use probably down to three-thirty or four o'clock.

BY THE CHAIRMAN: Is there any particular reason why many cases are held thirty to sixty days after they have been argued?

A Held under advisement, so far as the Board is concerned. Oh, yes.

BY THE CHAIRMAN: How many cases are "held under advisement," or what percentage are immediately disposed off?

A You are asking me to guess. I would guess anywhere from three to four percent are "held under advisement" by the Board before they come to any conclusion.

BY THE CHAIRMAN: In your experience, what is the longest period any case was ever held under advisement?

A I would have to go 'way back.

BY THE CHAIRMAN: Say, within the last five years?

A I have only been here since May, 1955. Two months is the best we have a case under advisement.

BY MR. FLEMING: Do I understand that the seventy cases are heard by the members in that two-day period?
A Yes.

BY MR. FLEMING: You only average about eight minutes to a case?
A I think it is about ten. Some are very lengthly, others very short.

BY MR. FLEMING: Is anyone denied to be heard?
A No.

BY MR. FLEMING: So, it takes exactly ten minutes of an hour because of the number of people appearing against the application?
A The extreme suggestion on your part. If the Board wanted to listen to a plea of other persons interested, they have a perfect right to listen.

BY MR. FLEMING: Do they listen? Or, does the Board shut them off?
A If it gets repetitious, they will shut him up. Rarely do they do it. The average attorney is pretty alert minded, therefore, and he has a sense of propriety; and I know of very few cases where they are told to shut up.

BY MR. YOSKO: After the Board is in executive session and arrives at a decision in a case, is that certified to you?
A That is right.

BY MR. YOSKO: And the parties interested?
A Yes, sir.

BY MR. YOSKO: How long a time elapses, as a general rule, between the time a case is heard and the Board arrives at a decision?
A Some of them are very quickly done, and those that are done under advisement or consideration, the Board may hold subsequent meetings to consider them. But, we will say, this afternoon we hear John Brown and he has a very good case, and no Judge or District Attorney disapproves, the Penitentiary shows a good record, and the Board says, "Yes, we will approve." In other words, about three weeks from that time that will be —that recommendation from the Board—duly signed and written up—will be in the hands of the Governor.

BY MR. YOSKO: The same thing would apply on an objection?
A We don't send any objection. That is a dead letter.

BY MR. YOSKO: That time elapses from the time a case is heard and the time—
A Further consideration cases, Senator, are held by the Board the day of a hearing.

BY MR. SCOTT: You mean, the Board will go into executive session after the hearings today and go into most of the cases?
A That is right.

BY MR. YOSKO: Am I right that the jurisdiction of the Pardon Board relates only to sentences of one year?
A The county prison can't commute—

BY MR. YOSKO: A sentence of the County Court?

MR. McBRIDE: I would say, yes, the Pardon Board has legal power under the Constitution that after a sentence—

BY MR. YOSKO: I am talking about commutations.

MR. McBRIDE: If it is a sentence of one year flat, there is no question. He has to get a minimum or maximum, and therefore, their action would be to turn him loose. But the Judge in such a case—anything up to two years, the Judge himself has a right to parole. The Pardon Board has no jurisdiction except on cases of two years and over.

BY MR. YOSKO: In other words, Mr. McBride, has the Pardon Board and the Judge both that power?

MR. McBRIDE: Yes.

BY MR. YOSKO: What would be the result if a death sentence were commuted to life imprisonment, and—
A The Parole Board would have nothing to do with him when he is under sentence of death.

BY MR. YOSKO: In other words, he has not become a subject of the Pardon Board?
A That is right.

BY MR. YOSKO: Is it not a fact that the Governor is required to file a report on his cases?
A I so understand it is.

BY MR. YOSKO: Do you know where that is filed?
A With the Clerk of the House and Senate, at the beginning of each session.

EXAMINATION (CONTINUED) BY MR. KOHN:

Q Now, it has been the custom, has it not, for the Pardon Board to allow attorneys to come in the room where they are discussing these cases?
A I have never known of one.
Q The custom, usually, where they are in executive session.
A Yes.
Q How about any other time? In recess— Whether it is an accepted procedure by attorneys and parole officers to come in where the Board of Pardons are recessing?
A You mean, the attorneys and parole officers— I have known them, personally, to go up and say, "How do you do."
Q Do they go up and talk to them?
A I suppose they do. How well the relationship— But, I don't know that— I just know, by no means—
Q You mean, it isn't the generally accepted practice, as one of the members of the Board of Pardons, for them to go up and say, "Hello"?
A I don't know whether it occurs. It might be the accepted practice. Members of the Board, or purely—, or friends.
Q Mr. Hean, as Secretary of the Pardon Board, will you make available to us such information—
A I know I am required under subpoena C.D.T. to furnish such information as you require.

BY THE CHAIRMAN: Will you make available such information as this Committee desires?
A Only upon advice of counsel.

BY THE CHAIRMAN: That is a list of information (handing paper to witness) the Committee would like to have; and we would like to have it before the day is out, that information, so our counsel can proceed.

MR. McBRIDE: Mr. Chairman, may I propose this information—it might be late at night, because we start in this afternoon with the Board of Pardons and I don't know when I will have a chance to look over it; but I will look over it and give you a very prompt answer.

BY MR. BELL: I have been sitting here listening to a number of questions and answers about this material the Committee wants furnished. Now, what is the box score?
A It would be made available upon advice of counsel for the Chairman of the Board.

BY THE CHAIRMAN: Will you see that all that information on that list is provided?

MR. McBRIDE: That is right.

EXAMINATION BY MR. McBRIDE:

A Mr. Hean, you talked about certain confidential reports which are not made public, either to counsel or to the applicants. Are they reports from the penal institutions themselves?

A They are from the Parole Board. They are stamped "Confidential."

Q Do you also get that confidential report from the institutions themselves?

A We do.

Q Do you get any report from a Judge, or District Attorney, or any other person as being confidential?

A Well, in the broad sense—correct. There is an expression in there, or a statement from the Judge or District Attorney, suggesting that his report to us be kept confidential; and then, of course, we comply with his request.

Q Before the Board goes into session, do you prepare these summaries for every member of the Board for every case, including a copy of the petition, the summary classification, the results of any psychiatric or psychological tests upon entry into the institution, the records of the man while in the institution, his criminal record before arriving here, the recommendations of the Judge and District Attorney, and any confidential report you have from either the institution or Parole Board, and do you say that you have that before each member of the Board upon the date of the hearing?

A I would suppose they have that before them at the public hearing.

Q Is it true, also, that all cases on each day are decided in executive session on that day, except relatively few? Except where some question has arisen as to whether the Judge, District Attorney, the medical examiner, or some other person, could throw additional light on the particular case?

A They are so decided at every session.

Q And the main reasons given for the type of disposition?

A That is correct.

Q Are there any people who have asked you to treat certain information as confidential and also explained the reasons why they wanted it to be treated as confidential?

A They haven't given me the reasons, except asked me to keep it confidential.

MR. McBRIDE: (To the Committee) I would like to disclose it to you in your executive session and have you say whether you think it should be brought out in public—and we will be satisfied.

BY MR. YOSKO: This confidential information you are talking about—it is the information that is withheld from the attorneys and others looking at the record?

A Generally speaking.

BY MR. YOSKO: Is this confidential information going to be withheld from this Committee?

A I think the Attorney General just made a statement to that effect.

MR. McBRIDE: I think, in any particular case, if the Committee wants to see this confidential information in executive session, you can see it the same way we saw it. I think after you have seen it, the nature of it, I think you will see there is a definite reason—

BY THE CHAIRMAN: We want to make sure if anything is to be withheld from us. Then I think we should know what it is.

A That is right. You should know.

BY THE CHAIRMAN: Will it be available to our counsel at periods when we are not in session?

A If Mr. Kohn would come up to my office and say, "I would like to see the case of John Smith"—

MR. McBRIDE: That would have to be the policy of the Board of Pardons. Of course, you are now asking permission and I will take it up with the Board of Pardons. Any decision that would apply to Mr. Kohn would apply—

BY THE CHAIRMAN: We will file in writing the desires of the Committee in that connection, and then advise you whom we will authorize to look into the files.

MR. McBRIDE: I think the Board of Pardons will be able to completely agree— To agree with this Committee.

EXAMINATION (CONTINUED) BY MR. KOHN:

Q Would you tell the Investigating Committee here why, if decisions are made almost immediately after the executive session of the Board of Pardons, the results are not known to the applicants or persons interested for from thirty to sixty days?

A That is correct. Perhaps not thirty to sixty days; but two weeks must elapse so the reasons will be phrased among the members of the Board.

Q You mean, they must be considered?

A No, the phraseology. And one of the members authorized to rewrite it. Any of the members has a right to approve or disapprove. And we must wait until the Governor— We await his signature.

BY MR. SCOTT: Do you dictate the phraseology, or each member of the Board?

A No, I do it, and send it around to the Board for their approval.

EXAMINATION BY MR. KOHN:

Q Isn't it a fact that sometimes three members of the Board might agree, but the same thing that might make them agree might not be in agreement with the other one—and what constitutes a majority opinion—so—

A That is correct.

Q The petition is final on the tenth of the month, and about sixty days later it will be heard—

A He asks to reconsider—

Q Isn't it a fact that when filed on the tenth of February it would be heard at the March meeting of the Board?

A Filed on the tenth of February it would be heard at the April meeting.

Q At the April meeting?

A Yes, sir.

Q That would be approximately sixty days?

A Approximately sixty days. That was the rule up until 1955, when we found that to get material from the Parole Board and the Penitentiary the thirty days was such a limited time that we could not do the investigating that had to be done, so we extended it.

INDEX

Committee's Witnesses	Direct	Cross	Redirect	Recross
Frank R. Hean	6	113	128 132	131
J. Harold Hughes	134			

EXHIBITS

Committee	Identified and Received
Exhibit No. 1— "Rules of the Board of Pardons"	7
Exhibit No. 2— "Board of Pardons Changes"	7
Exhibit No. 3— Letter dated February 18, 1957 to Hon. Thomas McBride, together with attached letter dated February 19, 1957 to Honorable Edwin W. Tompkins	58

BEFORE JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a.m., Wednesday, February 27, 1957

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel),

CHAIRMAN TOMPKINS: This committee, of which one member is absent this morning, is directed under House Resolution No. 1, Printer's No. 8, of the 1957 Session of the General Assembly, as follows:

"Resolved (The Senate concurring), That the Speaker of the House of Representatives appoint three members of the House and the President pro tempore of the Senate appoint three members of the Senate, who together shall constitute a joint committee, and be authorized and directed to make an immediate investigation of all actions since January 4, 1950 of the Board of Pardons in connection with the pardon, parole, or commutation of sentence of persons convicted of crimes."

Now this committee fully realizes that the scope of our inquiry cannot and is not designated to change any decisions of the Pardons Board.

We further realize that we are not here to crucify anybody, but to try to clarify the procedures and actions of the Pardons Board. If there are any weaknesses in the procedures and the actions which have taken place, we feel that it is our duty to try and point out those weaknesses, and try and pass remedial legislation. If there have been any abuses in connection with the powers of the Pardons Board, we also feel it our duty to point out what those abuses are.

Now the committee, consisting of Senator Scott, Senator Yosko, Representative Lopresti, Representative Bell and myself, are present this morning and under our rules constitute a quorum of the committee; Senator Fleming is absent.

There is appearing, on behalf of the committee, David S. Kohn as Counsel. There is also present with us Attorney General Thomas McBride and I see three members of the—I guess four members of the Pardons Board; Miss Genevieve Blatt, Lieutenant Governor Furman, Secretary of the Commonwealth Finnegan and Attorney General McBride.

With that we will turn the matter over to Counsel Kohn at this time to proceed with the hearing of the day.

Mr. KOHN. Mr. Chairman, I would like to call at this time Mr. Frank Hean, Secretary of the Board of Pardons for further questioning. He has been sworn before.

CHAIRMAN TOMPKINS: We will re-swear him.

COMMITTEE'S EVIDENCE

FRANK R. HEAN, having been duly sworn was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Hean, in the record you have been previously identified as Secretary of the Board of Pardons, is that correct?

A That is correct.

Q I show you a booklet entitled "Rules of the Board of Pardons" and offer this for the record, and ask you whether or not that was adopted by the Board of Pardons as the rules and regulations under which they will operate?

A That is so and you include the amendment, do you not?

Q Yes.

A It is so.

CHAIRMAN TOMPKINS: May we have all exhibits first marked and identified in order that they may be referred to by exhibit number?

MR. KOHN. Will you mark this, please?

(Reporter complied.)

Booklet entitled "Rules of the Board of Pardons," produced, marked for identification and received

in evidence as Committee Exhibit No. 1. PLS 2-27-57

Sheet attached to "Rules of the Board of Pardons," entitled "Board of Pardons Changes," produced, marked for identification and received in evidence as Committee Exhibit No. 2. PLS 2-27-57

BY MR. KOHN:

Q Now referring to Exhibit No. 1, that contains the names of the Members of the Board of Pardons as follows, does it not: Honorable Roy E. Furman, Lieutenant Governor; Honorable James A. Finnegan, Secretary of the Commonwealth; Honorable Herbert B. Cohen, Attorney General; Honorable Genevieve Blatt, Secretary of Internal Affairs; and Frank R. Hean, Secretary. Is that correct?

A That is not correct because Mr. Cohen is no longer Attorney General, and we stamped over Mr. Cohen's name the name of the new Attorney General, Mr. McBride.

Q I ask you whether or not it contains those names?

A It contains those names.

Q And it contains an overprint of the name of Thomas D. McBride in place of Herbert B. Cohen as Attorney General at the present time?

A That is correct.

Q Now those are the rules adopted by that group for the operation of the Pardons Board, are they?

A They are.

Q In functioning, does the Pardons Board follow those rules strictly?

A Not one hundred per cent.

Q Well are there any supplemental rules then in writing?

A There are.

Q Where are they?

A They are attached to Exhibit 1, known as Exhibit 2.

Q There is an Exhibit 2, attached thereto, which is a sheet of paper containing two items that are changing Rule V, Section (b) and Rule VI, Section (b), is that correct?

A That is correct.

Q Now those particular additions thereto, are they strictly followed?

A They have been strictly followed, yes.

Q They have been?

A They have been since their adoption.

SENATOR YOSKO: Mr. Kohn, will you tell us what the rule was and what change was made? You are talking about a change in the rule. Maybe you know and I do not.

BY MR. KOHN:

Q Will you tell us what change Exhibit 2 made in the original rule set forth?

A The original rule provided a thirty day interval approximately between the date of the filing of the application and the date of hearing. The Board amended that rule by extending it approximately sixty days between the date of filing and the date of hearing before the Board in open session, the reason being if you care to hear it—I don't suppose.

The next amendment followed that any petition for a rehearing is a petition filed within the year. Such would be allowed upon the consideration of the Board, provided new facts were set forth in this petition for rehearing that were both substantial and material and not previously presented before the Board.

Q The word in that particular section capitalized is "new," is it not?

A That is correct.

BY CHAIRMAN TOMPKINS:

Q What was the date of the adoption of the amendments, Mr. Hean?

A I have not made—but they were adopted along in 1955, approximately in September of 1955.

Q And effective when?

A And effective immediately, yes sir. They were not to the amendments. As I understand them, they were not too different that any delay had to be made.

Q Wherein do those amendments differ from the rules that were in existence?

A The old rule had only the thirty day interval between date of filing and the date of public hearing. We extended that interval to sixty days in round numbers, and the second modification was that on petitions for rehearing the Board felt that to hear a rehash of the matter that had been previously presented without introduction of new material, substantial and material, it would not be wise. They did not want to hear it so they put that amendment in. It is more or less a re-emphasis of the attitude of the Board and makes it clear.

BY MR. KOHN:

Q In regard to the rule for rehearing, can you tell this committee whether or not that has been strictly followed?

A I would say generally it has been strictly followed.

Q Aren't there numerous cases in the files in which rehearings have been granted either without new facts having been alleged or upon the old applications?

A I could not give you a very categorical answer to that without a review of the file.

Q Do you know of any cases?

A Offhand, no.

Q In the matters where they have deviated from the rules, who has made the determination for such deviation?

A The Board acts on all petitions for rehearings and considers them at Executive Session, and if they decide to allow a rehearing, that is so ordered and I inform all parties interested.

Q Are there ever rehearings on rehearings, if I make my position clear?

A Yes, I understand; right offhand I cannot say. I do not want to say that with an error.

Q You would not say that there were not any in the files?

A I would not like to say that without reference to the file, Mr. Kohn.

Q And as I understood your previous testimony, where a commutation is refused, there has been no official record or a vote thereon kept to show on what basis it was refused or how the vote might have been divided?

A There are no minutes kept of why the Board refused; only the record is refused.

Q In fact, there is no record in the particular files. The only record that is available on that is a card index which you keep in your office.

A That is correct, together with the notes on my calendar.

Q Your calendar is a day book, in effect, showing the decisions made on each particular case.

A That is correct, Mr. Kohn.

Q Together with notations that are on as to any reasons for dissent or approval.

A Usually, rarely do you have the refusal basis; the affirmative action of the Board and a word or two would disclose to me what was the thought of the Board in any affirmative action.

Q And from this word or two which you received and noted on your book, who wrote up the recommendation of the Pardons Board, the phraseology thereof and reasoning thereof?

A I do it probably in ninety-nine per cent of the time.

Q And before the Members sign it, do they approve the phraseology and reasoning thereof?

A Before the Reasons, as I call them, are approved, they are distributed to each Member of the Board for his or her inspection and reading and correction, and many times they are corrected.

Q Once they attach their names thereto, that becomes the final act of the Pardons Board, does it not?

A That is correct.

Q And in attaching their names thereto, they have adopted the reasoning as set forth in the commutation?

A That is correct.

Q And the Reasons thereof?

A And the Reasons, yes.

Q And the phraseology?

A And the phraseology.

Q Now will you tell us whether or not the reasoning set forth in the commutation made by the Board is based solely upon facts which appear either in the notes taken during the hearing or the documents which are contained in the files?

A They are based on both bases; what is heard at the hearing in open session and what is also contained in the folder from our various sources of information on the case.

Q But what I am asking you specifically is whether or not the reasoning and phraseology, and the Reasons given for such commutation, are based solely on record facts and documents?

A When you use the word "phraseology," many times the exact words are not quoted. They are not verbatim but the sense of the report that we may have is incorporated.

Q Well what you are saying is that you incorporate some part of the record as you see fit into the wording of the commutation?

A I think that is a very fair statement.

Q And that phraseology comes from something that is in the record or on the record?

A That is correct, Mr. Kohn.

Q Now I call your attention specifically to Section XII, paragraph (b), of the booklet entitled "Rules of the Board of Pardons," which reads as follows:

"The individual members of the board shall not discuss pending cases except with the trial judge, trial district attorney, president judge, district attorney, assistant district attorney, private prosecuting attorney and members of the boards of trustees or boards of inspectors or wardens or keepers of institutions in which the applicants are or were confined."

Did I read that correctly?

A You did.

Q Are there any exceptions to that rule?

A Well the only exception I would say is that the Board of Parole is included in the matter of reports that we get. We also get them, of course, from prison inspectors, prison wardens, penitentiary staffs and also the Board of Parole.

Q Are there any other persons excepted from that rule?

A They are in addition to it, not excepted.

Q I mean in addition to it. Thank you for your correction.

A We would not—I have no record of anyone other than that group mentioned here, plus the Parole Board.

Q Have you found any cases which have come before the Board in which there was evidence that persons outside of the persons mentioned in paragraph XII, subsection (b), have spoken to members of the Board?

A I have no personal knowledge.

Q Has any member of the Board during the time you have been Secretary to the Board of Pardons disqualified himself from sitting and considering a case?

A Yes, sir.

Q Now just a minute. On the basis that someone outside of those mentioned in XII (b) has talked to him about the case and he did not want to sit on it?

A The only disqualification that I know of—I am going to answer your question. No, I do not know of any. The only disqualification has been when members of the Board, prior to their assignment as Board members, were interested in cases in private practice or for other purposes.

Q For the record I am not talking about Mr. McBride, so we get that straight. I am talking about any other possible cases where Board members had been contacted by individuals not allowed to contact them under Rule XII (b); that they disqualified themselves because someone had talked to them.

A Not to my knowledge.

Q I note by your files that there are many individual letters received in specific cases, and I ask you whether or not the Board ever makes any attempt to verify the accuracy and the reliability of such letters?

A I have no such recollection that they have ever checked the writers of letters on behalf of any applicant that we receive.

Q Would you say, however, that in many instances the Board has referred specifically in its recommendations to having received such letters and basing part of their action on such letters?

A I would say that in Reasons we have, from time to time, stated that citizens of a community have expressed their opinion favorably towards the applicant, not mentioning the number. Sometimes we say a large number or a few; we do that from time to time.

Q In other words, you say hat the Board does rely on letters sent in?

A I did not say rely; I said they referred to it.

Q They referred to it in their Reasons?

A In their Reasons, yes.

Q In your previous testimony, you stated that the parole agent attached to the Parole Board makes preliminary investigations for the Board of Pardons, because the Board of Pardons has no such facility at their command, is that correct?

A That is correct.

Q I think you also stated that the Parole Board Agent, assigned to the Pardons Board, specifically contacts the victims or their relatives to find out their attitude on any particular case. Did you say that in your previous testimony?

A I do not recall. If I did, it was inadvertent because I am not positive in every instance they contact the victim or relatives of the victim or the victim himself if he is alive as to his attitude, no.

Q You say now that you do not feel that they do in all cases?

A That is right.

Q Do you know of any cases where they have done it in the last six months?

A Offhand, without reference to the files, I could not give you a specific answer.

Q You cannot give me one case in which the parole agent has contacted the victim?

A I could not give you right at this moment, although it may be in the file.

Q Well now if you stated in the previous testimony that this was a requirement of the Pardons Board to contact the victim or his relatives, how do you explain the failure to do so in some of these cases and the failure of the Pardons Board to require the contacting of the victims or their relatives.

A Well I cannot explain that other than I have no recollection of making the categorical statement that the Parole Board Agents contact the residence or the home or the relatives of the victim. They have done so and we have record of their report.

Q Do you say now that it is an unusual thing for them to contact them or is it a usual thing?

A I would not say without a glance over the reports of the parole agents in many cases to find whether that is the practice or not. They do contact the applicant's family with respect to job and residence and things of that sort.

Q Do you know of any case in which the Pardons Board has held up a case until such time as they could send out an investigator to contact the vicitim or his relatives?

A I have no such recollection.

Q It has never happened in the time that you have been Secretary?

A I do not want to be categorical and I do not want to fail to give you a responsive answer, but I have no such recollection. It may have happened.

Q Now in regard to these rehearings which the Board allows, once a rehearing has been had and denied, does that end the case? What procedure would there have to be for the Board to reconsider that particular case?

A The applicant or his attorney or representative having been refused—

Q On a rehearing.

A On a rehearing having been refused and again comes back for a rehearing during the same year, that again would be based on a petition, informal to be sure, and presented to the Board. If so allowed, it would be heard.

Q Do you know of any cases?

A Offhand I cannot give you one, no sir.

Q Do you know of any cases where a rehearing has been had and refused, and a subsequent rehearing granting without the filing of a new application setting forth the reasons as required in the rules?

A I have no present recollection of it.

Q Would you say there weren't any?

A I would not get into a categorical "yes" or "no" to it.

Q Would you say that there was not a rehearing granted in such a case without even a written vote of the members of the Board?

A I have no such recollection of that being done.

Q You say there were not any?

A I would not say that, no sir.

Q There might have been?

A There might have been a lot of them.

Q Who would then decide that it was proper to violate the rules of the Board?

A The Board, as I understand it, votes. It is an independent constitutional committee and makes its own rules.

Q I think you said that to me the other day.

A You bet and I say it again.

Q I questioned you on the procedure on one particular case, and you told me that the rules had not been followed; that the Board made its own rules as it went along regardless of these.

A Not always; I did not say that under oath. We were discussing a case.

Q You make your statement accurate so I won't misquote you.

A Yes.

Q Well did you say that the Board is an administrative board responsive only—

A No, it is not an administrative board.

Q What did you say?

A I said it is an independent constitutional board.

Q I think that is correct, and in relation to the violation of the rules as set forth, what did you say their authority was?

A They are an independent constitutional board. If they care to do anything, they have the power to do it.

Q Now would the reasons that they would violate the particular rules of the Board be set forth in writing in that case or any of the cases which happened in that respect?

A It may or may not be, Mr. Kohn. That is not a very responsive answer, but I am in that position.

Q What is the policy?

A The general policy of the Board, you mean on rehearings?

Q No, I have another question, Withdraw that please. I have now found your testimony on page five of the original hearing and I quote:

"In other words, the Parole Board has the agents and they solicit information in connection with the application."

That is the question.

"Answer: That is correct.

"Question: And from whom do they solicit that information?

"Answer: Judges, district attorneys, individuals, victims and the general feeling of the community they may chance—" and you were cut off.

Now do you know of any cases in which they have contacted the victims, their relatives or the feeling of the community in regard to any particular case?

A They have, but I cannot give you at this moment a specific case.

Q Well is it so unusual that you would not remember whether or not it has been done regularly?

A It is not done regularly, no.

Q Why not?

A Well I do not know why not.

Q Doesn't the Pardons Board consider the attitude of the victim or their relatives or the feeling of the community in arriving at their decision on these cases?

A Not always, no.

Q Well do they ever?

A Oh yes, they certainly listen to anybody that has any objection.

Q Let's not evade the question. The question that I am asking you is, you are there in the consideration of cases before the Pardons Board, are you not?

A Yes.

Q Whether or not they consider or have attempted to find out the attitude of either the victim, his relatives or the community in general in any case that you know of?

A There have been such cases but I cannot give you a specific name or number or when it was.

Q Are they so far and few between that you cannot remember?

A I would say generally—no, I am not trying to evade it because rarely, rarely has the victim's family or relatives written or presented themselves before the Board at open hearing in objection to the action of the Board or contemplated action.

Q Is it also a fact that the victim or his relatives receive no notice of the possible commutation application before the Board?

A Not individual notice but there is a public notice advertising it.

Q By public noitce, you are talking about advertising?

A That is correct.

Q Isn't it a fact that you do not advertise rehearings?

A As a rule, no; I would say generally no.

Q Who establishes the rule?

A The rehearings are not advertised.

Q Well then it is not as a rule. You mean generally they are not.

A The original application is advertised.

Q Now I have looked through your files and I have yet to find a copy of an advertisement, such as is required by the rules of the Pardons Board, in your files. Where are they filed?

A They are filed right up there and we have copies of them.

Q Well not with files.

A Not with the file of the individual, no.

Q And who picks the papers in which these particular applications for commutation are advertised?

A I get a list from the Secretary of the Commonwealth.

Q I am not interested in that.

A You see what I mean, I pick them.

Q Who picks them?

A I do not know who picks them; I get a list.

Q You get a list?

A That is right.

Q Does that list attempt to pick out a newspaper which would give the general public the most information in regard to these or do you pick out country newspapers which might be in the—

A In large metropolitan areas, they are always papers of general circulation, of a good circulation

Q How many times a week do you advertise?

A Once.

Q And how many weeks?

A Once.

Q You know, as matter of fact, it just so happens that I know that you see the Middletown Press, a small country paper in Dauphin County, do you not?

A We also use the Patriot, too.

Q You use the Patriot also?

A Yes.

Q What about the legal paper of the Bar Association?

A That is always sent to, and every county that has a legal journal.

Q Now when the vote of any member of the Pardons Board is recorded in your particular book, are there any reasons recorded with it?

A You mean negative or affirmatives?

Q Yes.

A No reasons, no sir.

Q So then it is up to you to go over the files and find such reasons as will justify the vote of that particular member, is that correct?

A In general that is correct.

Q And you have no lead as to what his reason may be for or against?

A The individual?

Q Yes, the individual.

A No, but I sense the feeling of the Board on any favorable recommendations and try to write my Reasons in conformity thereto. Then they have, each member has the right as I have stated to correct it, and they do from time to time.

Q Now in many cases before the Board there are serious crimes which involve the community generally, such as rape and other offenses which may outrage the feeling of the community. Why hasn't the Pardons Board attempted to find out the feeling of the community in these cases?

A I can only give you one answer. The Board of Pardons has no staff equipped or trained to sense the community. We must depend in many instances on what the parole agent may give us. If he does not give us anything, we have no such information.

Q Well you do have in your files newspaper clippings of particular applicants, do you not?

A Occasionally we have them but as a general rule—

Q Who puts those in the file?

A When I see a case noted in the newspaper, sometimes we clip them and shove them in the file.

Q And those are in the file when the case is considered?

A Sometimes they are and sometimes they are not.

Q And who decides what newspaper clippings shall go in the file?

A I presume I would be the one to do the clipping.

Q And it is possible that you might pick one which favors the applicant or one which favors the community?

A That is a pretty difficult question to answer. I only—

Q You use your discretion as to which particular one goes into the file?

A I use my discretion.

Q On which particular one goes into the file?

A That is right. To answer how I exercise that discretion is difficult to answer.

Q You do not attempt then to make clippings of all the various views on the matter that might have appeared in the newspapers?

A I could not. I only get two papers; the morning Patriot and the Philadelphia morning paper and the rest of the State I never see.

Q Well now considering a case from Chester, you might have clippings in from Chester.

A No, I have not seen a Chester paper in more days than I—

Q What about Erie?

A I never see an Erie paper.

Q Well there are clippings in the Erie file, are there not?

A There may be but I have never seen—

Q Well, who put those in?

A Somebody left the paper there and I clipped it, I presume, but we do not get it.

Q Is there any significance to the fact that the clipping might be very favorable to the applicant?

A No significance, no sir.

Q And have you ever been ordered to take those clippnigs and put them in the file?

A No, never been ordered.

Q But they are in the file and they are considered?

A Some of them.

Q A few?

A Very few, very few clippings.

Q Do you ever make any findings on the basis of information contained in those newspaper clippings?

A Never to my recollection.

Q What is the significance of them in there, what help do they offer?

A They are information.

Q For who?

A For anybody who wants to look at the file; for members of the Board and myself or anyone else that has a desire to inspect that record.

Q How do you know that the information set forth in there is accurate?

A I have no reason. I depend on the newspapers that are not always accurate.

BY SENATOR YOSKO:

Q Does the Pardons Board subscribe to all newspapers in Pennsylvania?

A Subscribes to none.

Q Is there a clipping bureau in the Pardons Board?

A None, whatsoever, and may I add in answer that the clippings are coming from the Patriot or the Philadelphia Inquirer or the Philadelphia Bulletin that some of us may have bought and noticed the story and clipped it.

Q But the Pardons Board is not subscribing to them?

A Not to one newspaper.

BY MR. KOHN:

Q Now previous to the action of the Board of Pardons on a case, does the Governor's office receive any of the files?

A Will you clarify that? Do you mean when we have finished signing the Reasons?

Q No, before the Pardons Board has considered a case, does the Governor's office get any of the files or copies of the case and the records?

A No.

Q And you state that immediately after the hearings on these cases, the Pardons Board goes into executive session and decides the cases, most of the cases, immediately while they are fresh in their minds?

A That is correct.

Q And then you take the cases and set up the phraseology and the reasons, and they are signed officially, is that correct?

A After correction by the Board and then they are signed officially.

Q And then a complete copy of the file goes to the Governor's office, together with the recommendation of the Pardons Board?

A That is correct.

Q And when does the Governor receive those? Does he receive all of them at one time or does he receive one at a time?

A All at one time.

Q All at one time.

A There may be exceptions to that occasionally, but generally they get them all at one time.

Q And do you know how much time elapses between the time you give them to the Governor's office and the time the Governor acts on them?

A I have a record upstairs of the interval between delivery of the recommendations to the Governor and the time we receive them back from the Governor with his signature but, offhand, oh, I will just make a wild stab in the dark and give you approximately—

Q Well some cases are acted on specially, are they not?

A Particularly there is one in my mind I have that will be acted very promptly.

Q It was acted on or has been?

A It has been, yes.

Q Then you say that in these cases a complete file goes to the Governor's office?

A That is correct.

Q Now do these files contain the numerous technical appeals and decisions and testimony taken before the different courts of the Commonwealth of Pennsylvania and United States?

A In murder cases they do, in capital cases.

Q They contain a complete record?

A They contain the record as delivered to us on appellate work, yes.

Q And that is available then to the Governor for study and determination?

A I presume it would be available to him.

Q Well I am asking you whether it accompanies the record.

A It accompanies the record.

Q Then it is a fact that he has it available for study if he so desires?

A I agree with you he does have, sure.

Q Does the Pardons Board take note of any extraneous facts outside of those I have already asked you, and I am going to ask again?

Does the Pardons Board take note of any extraneous facts outside of newspaper articles, which you have mentioned, and the testimony in the file and the documents and letters that are officially in that file, in arriving at their decision?

A I have no recollection of them ever picking out something that was not part of the record or heard at the public hearing, and base their decision on that extraneous matter. I have no such recollection.

Q How many cases do you hear in a session ordinarily?

A It runs right now about seventy-five to ninety cases a meeting.

Q And that is a two day meeting?

A We are now running a day and a half.

Q A day and a half?

A Yes.

Q How many hours do you work at a session?

A Well most fresh in my memory is the one held on February 19 and 20, and we started in at 1:30 and wound up at 6:00 o'clock for the hearings and then held executive session for awhile to 7:00 o'clock. The next day was a full day. We started in at about 9:20 and quit about 5:15 or 5:20, and then held executive session for about two hours. It was 8:00 o'clock when I left the room.

SENATOR SCOTT: Mr. Kohn, didn't we review some of this? It is repetitious again unless you are driving at something specific. The questions were asked at the last hearing from the same witness.

BY MR. KOHN:

Q You may state whether or not the Board of Pardons has any policy in regard to how long a person, sentenced to life imprisonment, has to serve before his application will be considered?

A I have no—we have no policy that I know of.

Q Do you know of any case in which the Board, in commuting the sentence, has enunciated such policy?

A I have no recollection.

Q Do you know if the Board of Pardons or any member thereof has consulted the Governor in regard to the pending application before the Board has acted favorably or unfavorably on any particular application?

A I have never been informed by any member of the Board that they consulted the Governor prior to forwarding the recommendation.

SENATOR YOSKO: Just excuse me a moment. I would like to ask some questions along this line.

BY SENATOR YOSKO:

Q Assuming a man was found guilty or pled guilty today, and was sentenced today and then spent, say, two weeks in jail; lets assume they were sentenced to two years in jail and they spent two weeks in jail, and then filed an application for commutation of the sentence by the Pardon Board. Is there any rule that the Board follows on whether or not it would entertain that application?

A No, if I were sentenced to the Dauphin County Prison or the Eastern State Penitentiary for, we will say, a minimum of two years to four, two to four, and two weeks after I was admitted my attorney would present an application to the Board for a commutation of sentence, that application would be in order.

Q Does the Board have a right to entertain or object to an application that is filed in the first instance or must they hear the application?

A I have never—to answer your question, I know of no rule that they haven't the power to refuse, but I have never known them exercising it if the application is in order. They have the right, the applicant has the right, the prisoner has the right to apply for a commutation of his sentence before he really sits down and gets warm in the pentitentiary. Of course the Board has the right to refuse, too.

BY REPRESENTATIVE BELL:

Q Well, Mr. Hean, in response to Mr. Kohn's question concerning consulting with the Governor, you stated that no one had ever told you that he had consulted with the Governor.

A That is right, no member of the Board.

Q Have you ever heard any member of the Pardons Board state to anyone else in your presence that he or she had consulted with the Governor or words to the effect that the Governor wanted certain results done by the Pardons Board?

A I have never heard them so state.

BY REPRESENTATIVE LOPRESTI:

Q Is there any rule of the Board or is there any rule of law that you know of which would require the Board, or any of its investigators or the Parole Board to contact the victim or any relatives of the victim?

A There is no much rule.

Q There is no such rule of the Parole Board?

A Or the Board, no sir.

Q Has there, to your knowledge, ever been such a rule?

A Not to my knowledge.

REPRESENTATIVE LOPRESTI: That is all.

BY SENATOR YOSKO:

Q Mr. Hean, specifically what are your duties as Secretary to the Board?

A Were you here at the last meeting? I will be very glad to rehash that.

SENATOR YOSKO: I do not believe that question was asked.

SENATOR SCOTT: I think that was the first question that was asked Mr. Hean.

THE WITNESS: I will be very glad to give them if you want them. Yes, I would be very glad to, briefly if I may.

SENATOR YOSKO: I would like to have them.

THE WITNESS: I am appointed by the Board as Secretary of the Board. I receive all applications, inspect them and have them properly put in shape for advertising, for appearance in the calendar that we issue each

month, and set up the folders which each member of the Board gets prior to the date of hearing; also prepare an analysis sheet of everything that is in the folder in a few words; see that the folder is complete and delivered to the members of the Board, together with the whole binder and file for their study prior to the hearing.

Following the hearing, the decisions of the Board, favorable or unfavorable, if they are unfavorable we put them back into the file. If favorable, we write the Reasons, as Mr. Kohn has asked me about here a few moments ago, and forwarded to the Governor's office. When the Governor signs the warrant or chart, he returns it to us. We have photostatic copies made of all matters. Then we keep one set in our file, a set of Reasons and others are deposited with the Secretary of the Commonwealth.

Card index kept up-to-date as far as we can; answer correspondence, check on the money that we receive for applications and filing fees. I do not know what I don't do every day; answering innumerable correspondence that comes into the Board on a wide variety of questions.

BY SENATOR SCOTT:

Q Are you also custodian of the files?
A What did you say, sir?
Q Custodian of the files?
A And custodian of the files.

BY SENATOR YOSKO:

Q These opinions that you write, Reasons for Commutation of Sentence, are they drafted in the rough for the consideration of the Board?

A They are drafted in the rough and sent to each member of the Board.

Q But the Board does review them and send them back to you?

A That is right, with corrections. Many times I am flattered by not having corrections but then, on the other hand, on innumerable occasions phraseology is changed, an additional paragraph included or taken away and they are rewritten and circulated among the members of the Board.

Q So the final product, the final opinion that is made public and is a matter of record is that of the Board itself?

A That comes from the Board. They all agree and sign their names to it.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Hean, I have a question please. Is the Parole Board an independent agency? That is in the sense that it is independent from the Pardons Board?

A Absolutely, sir.

Q And by what authority does the Pardons Board require a parole officer to give reports?

A I cannot give you a specific answer except that between the Pardons Board and the Parole Board there has been this working arrangement.

Q Is there any law which requires the Parole Board to operate with the Pardons Board?

A I have not reviewed the Act of 1939 or 1929, isn't it, and to give you a really honest reply, or rather accurate reply, to your question there may be in that Act a clause or a paragraph saying that the Parole Board upon the request of the Pardons Board should do certain things and make a report thereto. Now that may be in the Act but I am not too alert this morning to answer this question.

Q Has the Parole Board ever set down any rules or any lists of inquiries that they would want the Pardons Board to follow through on?

A The Parole Board has never, to my knowledge, suggested to the Pardons Board.

Q I mean just the reverse, has it?

A The Pardons Board during my administration has never requested a certain form or requirement that the Parole Board should carry out. It is sort of precedent on what has happened in the years gone by.

Q And are you operating the Board at the present time on sort of a precedent rather than on definite rules?

A Not definitely, but we follow what has been going on for the last seventy-five years.

Q Well isn't that the same thing, operating more or less on precedent rather than rules in so far as the Pardons Board is concerned?

A Yes, so far as the Parole and the Pardons Board is concerned.

BY SENATOR YOSKO:

Q Mr. Hean, do you know of any cases where the Pardons Board or any member of the Pardons Board has gone to the Governor and said, "If we approve this commutation or pardon, will you go along?"

A I have aboslutely no personal knowledge of ever any member telling me that they had gone to the Governor and asked him to do or not to do a certain thing.

Q Do you know of any cases where the Governor or anybody representing the Governor went to the Pardons Board and said if the Pardons Board acts favorably on any one application, the Governor would go along with it?

A I have no personal knowledge of any representative from the Governor's office soliciting any member of the Board saying that they should act pro or con on any application. I have never been present—may I reiterate it—never been present when such a conversation either originating with us or originating with the Governor's office nor have I had any information to that effect.

Q So that to the best of your knowledge, the Pardons Board acts independently without influence from the Governor's office, and the Governor's office acts independently without any influence from the Pardons Board?

A I could say that, yes, a thousand times.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, I believe you stated that you are furnished with a list of newspapers in which advertising must be done or should be done.

A That is correct.

Q Who furnishes you with that?

A I get that from the Secretary of the Commonwealth's office.

Q That is the official publications being put out in the district in which you are interested?

A Yes, each county; each county we have a list of newspapers published in that county, and I get a list of the papers that are in that county or rather they come

to me. It may not be all the newspapers. I would not like to say.

Q Then when the selection is made as to what newspaper you advertise the application in, does the Board suggest to you what newspaper you use or is that entirely up to you as secretary?

A Say there are three in a county that have wide general circulation. We take one, two, three; run them alternately each session.

Q But what I am getting at, Mr. Hean, does the Board advise you what newspapers to use or is that entirely your discretion?

A Largely my discretion because I get the list from the Secretary of the Commonwealth's office.

Q Well does the Board advise you on what newspaper?

A I have no recollection of them saying, "Hean, you put exclusively in Venango County in the Venango Express and you must use that paper and not use the"—

Q In any particular case, have they sent any word to you, "Now in this particular case, Mr. Hean, we would like to have you advertise this application in such and such a paper?"

A No, they never told me that.

Q How long before the hearing do you advertise?

A Between two and three weeks prior to the hearing.

Q When the advertising has taken place, are there proofs of publication?

A Proofs of publication are submitted to me. I refer them back to the Comptroller of the Department of Justice and she pays the bill.

Q And what happens to those proofs then?

A The proofs of publication are then held by the comptroller, I understand. We never get them back after they have been sent up to her with my O.K., and she pays the advertising bill and unquestionably keeps that proof of publication that is attached to it, as you know. That is available.

Q Don't you think this should be made a part of the file of a particular case after they have been paid?

A Oh, it could be but it is only proof that it was advertised. It has no bearing on the case whatsoever.

BY SENATOR YOSKO:

Q Isn't that proof of publication attached to the requistion and sent to the Auditor General or State Treasurer?

A After it leaves my hands, I am not clear as to the procedure. I send it up to the Comptroller of the Department of Justice with my O.K. on it, that such was authorized by us to be published in "X" newspaper and attached to it is the advertising bill for that advertising.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, you say the proofs of publication are not sent back and made a part of the record?

A No sir.

Q Are there any other papers in the case that go elsewhere and do not find their way back to you?

A I have no such recollection, Mr. Tompkins.

Q Does the Pardons Board have any particular counsel that they hire to represent them on any matter?

A No sir.

Q Do you attend the executive meetings of the Board?

A I do.

Q Does the Governor always act upon the recommendations of the Pardons Board or are there occasions when he will turn down the recommendations?

A During this Administration, I have no recollection of the Governor refusing to approve a recommendation of the Board of Pardons. Now I do not want to be held firmly to that. He may have refused a recommendation but I have no such recollection at this moment. Certainly in the last six months he has not turned any down. Every recommendation that we have made he has approved.

Q Now, Mr. Hean, one more question. I gained the impression that the Pardons Board is empowered to make rules at will, is that correct?

A That is my impression too, sir.

Q Without any prior notice to any of the parties involved, the counsel or anybody else that might be interested, they can make the rules.

A They can make the rules. They are an independent constitutional body and they have made rules which you see here.

BY SENATOR YOSKO:

Q Do you know of anybody, Mr. Hean, attorneys, organizations or individuals that suggested a change in the rules that the Pardons Board acted upon or failed to act upon?

A I can truthfully tell you that I have no recollection of any individual, organization or group of individuals recommending certain changes in the Boards rules. That has never come to my attention.

BY REPRESENTATIVE LOPRESTI:

Q Getting back, Mr. Hean, to the question of advertising, is there a requirement by Act of the Assembly or constitutional requirement that applications be advertised in the newspapers?

A I think the constitutional provisions say "due public notice." Am I quoting correctly?

ATTORNEY GENERAL McBRIDE: Yes.

THE WITNESS: And we consider an advertisement in a daily paper of general circulation in the county from which the applicant was sentenced as being due public notice.

BY REPRESENTATIVE LOPRESTI:

Q And is that covered by a rule of the Board?

A Specifically, I do not know except the general constitutional provision, sir.

Q You do not know whether there is a written rule on advertising?

A Let me see whether there is. Let me inspect it on advertising here, sir, before I—

SENATOR SCOTT: Rule VII (c), it says: "publish in a newspaper of general circulation, in each county where any of the applicants were convicted, a notice stating: the names and aliases of applicants sentenced in the particular county; the crimes for which applicants were convicted; places of confinement and time and place of hearing."

BY REPRESENTATIVE LOPRESTI:

Q That is set forth in the rule.

A Yes sir.

Q Now to your knowledge has that rule been complied within every case?

A It has been.

BY SENATOR SCOTT:

Q That rule does not apply to a rehearing, is that correct?

A No sir, on original applications.

Q On original applications?

A That is right.

Q When there is a rehearing, there is no advertisement?

A That is right. May I make this qualification? We consider original applications one each year. If between the years lapse or interval there is granted a petition for a rehearing, the matter before the Board will be referred to the one previously heard plus the new material of a substantial nature.

BY REPRESENTATIVE BELL:

Q Mr. Hean, did I understand you to say that you receive no proof of publication of the advertisement?

A Oh yes, but I transmit it to the Comptroller of the Department of Justice; oh yes, we do.

SENATOR YOSKO: May I make a suggestion, Mr. Hean? If you haven't been doing it, Mr. Hean, it might be well to ask the newspapers to send proof of publication in duplicate so that you could retain a copy in your files and send on a copy to the Comptroller of the Department of Justice, which I am assuming is attached to the requisition that is sent over to the Auditor General and State Treasurer.

THE WITNESS: I imagine so.

BY CHAIRMAN TOMPKINS:

Q Now, Mr. Hean, you have read this rule on advertising. I did not hear in there anywhere where it was authorized to be published in legal journals. It has to be a newspaper of general circulation.

A That is true enough, the rule here, but we have made it a general practice long before I ever came on the Board that the advertising would appear in a legal journal or reporter in any county wherein such is published.

Q Well how many, how hany people who might be victims or relatives of victims do you think are reading a legal journal?

A I would say none, none, but the district attorneys, the judges, the members of the Bar of that county do read the legal journal and read it very carefully.

Q But what is the purpose of this advertising?

A In compliance with the constitutional provision that due public notice be given.

Q In the case of a rehearing, what notices are given to the parties involved?

A If the rehearing is granted, Mr. Tompkins, notice is sent to the judge, the district attorney and the applicants representatives, whoever it may be.

BY MR. KOHN:

Q Your rehearings require specific compliance with Rule VI, Section (b). Who checks the application for a rehearing to see that that rule is complied with and makes the decision to see that it has been complied with?

A Well that would be my work, Mr. Kohn, and if it is not satisfactory I have heard from the members of the Board that I should do it properly and I have been so advised.

Q Well what additional investigation is subsequently made upon rehearing to see whteher or not the particular additional Reasons set forth as required are complied with or whether or not they are true, correct or just what the situation is?

A There is no investigation.

Q None?

A None as to whether or not the allegations set forth in the petition for rehearing are true or not true. We have no such facilities to carry out.

BY CHAIRMAN TOMPKINS:

Q Would you recommend such facilities?

A I would very thoroughly if the General Assembly would grant sufficient funds for such work.

Q Lets' leave the funds out of this. Would you as a matter of good procedure and thorough investigation?

A I would certainly recommend a staff of investigators to be attached to the Board of Pardons, yes sir.

BY SENATOR YOSKO:

Q Are the applications under oath in the file?

A They are sworn to, yes sir. Now wait, I did not answer your question correctly. You asked me whether the rehearing petitions are under oath or affidavit, no.

BY CHAIRMAN TOMPKINS:

Q Are the original applications under oath?

A The original application is under oath; that is a notary public takes the application, acknowledgment rather. That is true.

BY MR. KOHN:

Q I call your attention specifically to the case of Joseph McSorley, No. A 3176, filed with the Board of Pardons, August 1, 1955, asking for a pardon. Can you tell me whether or not that particular case was considered by the Board as a pardon and what the result thereof was?

A I would have to have my folder from up-stairs down here to answer that question, Mr. Kohn, because during hearing time—

Q That is the folder.

A I know, I mean my own notes during hearing time.

CHAIRMAN TOMPKINS: Well now just a minute. We want everything connected with that. If it is necessary, we will give you sufficient time to go and get it, including the daily calendar you mentioned about and your own notes. We think all that information should be before this committee.

Will you repeat the question?

Mr. KOHN: Will you read it please, Patty?

(Question read.)

MR. KOHN: May I ask that we take a recess for a few minutes for Mr. Hean to get that, and one of the specific things that I want to point out in relation to that is that where you cull these files and try to find out what happened at a specific time, there is nothing in the file to show what happened at a specific time. It

is just a matter of procedure, that is, that I am bringing out.

Mr. Hean showed me the card index file which he keeps separately which does indicate the previous action on applications and rehearings, but I think as a matter of procedure you might take into consideration at a future date that all files be made complete and I would like to have him get his original record.

ATTORNEY GENERAL McBRIDE: That is on the question of where they have been refused.

MR. KOHN: No, no this—that is right, on the question of where they have been refused.

ATTORNEY GENERAL McBRIDE: The question you are asking is on the one which has been refused.

MR. KOHN: That is correct, but when it subsequently has been granted and you cannot follow the file without referring to his particular records, his personal records and the card index file.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, in connection with the matters already covered, shouldn't I examine the witness or do you want to do it afterward?

MR. KOHN: I would like to follow through with the witness.

ATTORNEY GENERAL McBRIDE: Do you mean then I will cross-examine him as to all these subject matters afterwards, long after the committee has lost the trend of it? I understand they are going into specific cases now.

CHAIRMAN TOMPKINS: Mr. McBride, I do not know if it is customary to break into cross-examination until they are finished with the witness.

REPRESENTATIVE BELL: Mr. Chairman, I would like to make a request from this committee for a ruling as to the extent to which the Attorney General or perhaps other private counsel shall be given the right to cross-examine the witnesses called by this committee.

ATTORNEY GENERAL McBRIDE: I would like to be heard on this, too, sir.

CHAIRMAN TOMPKINS: At this point I want to make it a matter of record—there has been a lot of newspaper publicity in connection with it—but I want to make it a matter of record, communication of February 18, 1957 from this committee to the Attorney General and a communication of February 19, 1957 from the Attorney General to this committee, regarding the issue of misrepresentation in certain cases pending before the Pardons Board. I want to make that a matter of official record at this time. This will be Exhibit No. 3, and at this time the committee reiterates the position it took at that time

> Letter dated February 18, 1957 to Hon. Thomas McBride, Attorney General, from Edwin W Tompkins, Chairman, Pardon Board Investigating Comm., together with attached letter dated February 19, 1957 to Honorable Edwin W. Tompkins from Thomas D. McBride, Attorney General, produced, marked for identification and received in evidence as Committee Exhibit No. 3 PLS 2-27-57

ATTORNEY GENERAL McBRIDE: Well the committee did not take any position at that time. The committee asked a question.

CHAIRMAN TOMPKINS: The committee is taking that position at this time.

ATTORNEY GENERAL McBRIDE: Well it is not a reiteration. Now I should like to be heard on this question raised here, as to my right to represent this as the Department of Justice administratively, which is before this committee and in any civilized committee investigation that I have ever heard of, counsel representing the department involved was heard fully and had the full right to cross-examine, the most notable instance being the Army-McCarthy hearings in which counsel for the committee was heard, the committee questioned and then counsel representing the Department of Defense and the particular people cross-examined fully with the same right as did committee counsel. The great invasions that have occurred have been in committees where no such right was allowed.

I claim here, as a matter of right, the cross-examination of every witness whom the committee counsel questions and whom the committee itself questions.

REPRESENTATIVE LOPRESTI: I think it is traditional justice.

CHAIRMAN TOMPKINS: We have not raised the issue of whether or not the right to cross-examine or representation of counsel is proper.

ATTORNEY GENERAL McBRIDE: The Chairman has not but the Representative has.

CHAIRMAN TOMPKINS: We do, however, raise, as a committee, the information contained in this communication which I have placed in the record as Exhibit No. 3 as to a conflict of interest of the counsel who is appearing here on behalf of the Board and the witnesses for the Board.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, the suggestion that there is a conflict of interest is nothing but pure nonsense.

SENATOR YOSKO: Mr. Chairman, so far as the conduct of these hearings is concerned and so far as this witness is concerned, I see no objection to the Attorney General asking questions, because up to this point all of the testimony has dealt with procedure and if the Attorney General has some questions that he would like to ask the Secretary of the Pardons Board that might enlighten us that we might have missed, I do not see anything wrong with it.

SENATOR SCOTT. Well, Mr. Chairman, we already set a precedent at our last meeting by allowing the Attorney General to cross-examine this particular witness, and I see no objection to it. The only question I thought was raised was when you were going to be allowed to do it.

ATTORNEY GENERAL McBRIDE: I certainly will bow to the committee on that.

CHAIRMAN TOMPKINS: I for one on the committee, General McBride, feel that we should continue with the witness.

ATTORNEY GENERAL McBRIDE: I bow to that completely. I thought this was the end of the procedural questions and that they were going into specific cases, but I think that is entirely a matter for the discretion of the committee and I yield immediately to it.

SENATOR SCOTT: Mr. Chairman, I think Mr. Kohn explained his reasoning that it was procedure for wanting this particular file.

CHAIRMAN TOMPKINS: We will call a recess for ten minutes and we will resolve these issues in the meantime, and Mr. Hean can go up and get his file.

(After recess.)

CHAIRMAN TOMPKINS: We will resume the hearing and proceed with Mr. Kohn.

BY MR. KOHN:

Q Mr. Hean, will you kindly give us from your original record on the hearing of Joseph McSorley for a pardon the date of the hearing on this application?

A Yes sir.

Q That is number A 3176.

A I have got it here in September of 1955 is what you are referring to.

Q Yes sir.

A That was hearing No. 127 of the September Session of 1955.

Q And that was an application for a pardon, was it not?

A For a pardon.

Q Do your records show that at the time this application was filed and heard, there was pending before the Superior Court of Pennsylvania an appeal on this case?

A Yes sir.

Q And what was the action of the Pardons Board on this application?

A Three refusals, three noes.

Q Were there any ayes?

A No ayes.

Q This application was then refused?

A That is correct.

Q And you so notified all the parties concerned?

A There was a calendar went out so marked and notices went to the district attorney and the representative of these applicants.

Q Was the basis of the application the facts as set forth in the application, plus additional facts brought out at the hearing?

A That is correct.

Q There was no technical basis for the refusal. It was on the merits, is that correct?

A I would so recall but that has been well over a year and a half ago.

Q What do your notes show on that?

A I say I have this. They asked for a pardon and I have, "These men were not then in prison when we heard this in September of 1955."

Q Are you reading from your notes or from memory?

A I am reading from my notes; "Not in prison" I have here.

Q All right, now I show you a part of your official file, letter dated December 21, 1955, written by John W. Fawcett, III, Esquire, of Philadelphia, and ask whether or not you received that letter?

A We received the letter, yes.

Q Is that letter addressed to you?

A Addressed to me.

Q And the letter reads as follows:

"Dear Mr. Hean:

"Yesterday I filed applications for clemency for the above-named individuals on behalf of Robert L. Trescher, Esquire of this office.

"On the previous day, Monday, September 19, Mr. Trescher had a conference with Secretary Cohen."

Does that mean the Attorney General?

A I have no person by the name of Cohen in my office.

Q Is there anyone by the name of Cohen on the Pardons Board?

A There was at that time.

Q Herbert B. Cohen, the Attorney General?

A There was at that time a man by the name of Cohen, Herbert Cohen.

Q What was his capacity, Herbert Cohen, the Attorney General?

A Yes.

Q The letter obviously refers to him, does it not?

A I would so interpret it.

Q You would so interpret it. Well I will continue.

"Conference with Secretary Cohen at which time Mr. Cohen indicated that it might be possible to accelerate the hearing of the application at the January session. We would be very grateful if all possible measures were taken to accomplish this."

Q Was this received by the Board?

A It was received by me anyhow.

Q I direct your specific attention to Rule XII, Section (b), and ask you whether or not if this conference took place between the attorney, as stated wherein he discussed the case with the Attorney General, this was not a violation of Rule XII, Section (b)?

A I cannot answer that question thoroughly. I was not present.

Q I did not ask if you were present or if it took place. I am asking you if in fact it was not a violation of Rule XII, Section (b), of the rules of the Pardon Board?

A In a very narrow way it would be. In a broad way certainly any man asking for a hearing is not influencing the Board.

Q I did not say you were to interpret the Rule or to qualify it or to increase it. I am asking you whether or not, according to the rule of the Board of Pardons, it is prohibited for any attorney or any person interested in any case to directly contact, talk to and make arrangements with any members of the Pardons Board concerning an application?

A This is not a discussion of a pending case. It is a request for a rehearing in which the writer of that letter, according to his statement, had contacted the Attorney General, the then Attorney General, and discussed it with him.

Q You would say then your interpretation would be that if a case had been before the Pardons Board and it had been acted on and a new application for a rehearing was being offered or arranged for, it would not be a violation?

A Not when there was no influence. He just is—

Q I did not say whether there was any influence.

A He just is asking; he is asking whether it would be agreeable with the Board to have a rehearing on this application heard in September of 1955.

Q And to accelerate that application?

A And requesting acceleration of it.

Q Now then is it not a fact that he did file applications, as he said in his letter for clemency, new applications,

with this letter or yesterday he said he filed them, is that what the letter says?

A That is what it says.

Q Now let me call your attention to letter dated January 6, 1956 from yourself to John W. Fawcett, Esquire, listing the McSorley, D'Antonio, Dendofer, DiMarco and Ranier cases, and ask you whether or not that is the copy of the letter from you to Mr. Fawcett on Department of Justice stationery?

A Yes, that would be a letter I wrote to Mr. Fawcett.

Q And would you care to follow me in the reading of this letter, and ask you whether or not it is correct as I put it in the record?

"Dear Mr. Fawcett:

"Enclosed is your check in the sum of $75.00, covering filing fee of the applications you gave us in the above cases."

Now I take it that you refer now to the applications he refers to having filed previous to the letter I just read, is that correct?

A Yes.

Q "We have considered these applications as a rehearing and since the Board has granted the rehearing request we have listed them as follows: 46A, 46B, 46C, 46D and 46E in the order set forth above. We will use the application forms and material, under our rehearing rules, that were filed in September.

"To use the new applications you sent us December 19th would mean that they could not be heard until March.

"We are listing these cases for the closing hearings for Wednesday January 18, 1956. We have so notified the district attorney of Delaware County.

"The applications sent us in December can be picked up by you at the Board's office when you come to Harrisburg."

Q Is that a correct reading of that letter?

A Correct.

Q Signed by you, "Frank R. Hean, Secretary."

Actually the new applications in which seventy-five dollars were submitted, fifteen dollars for each application, contained—cross out the word contained—would not have been able to be heard because of your rule that no application can be heard except once within a year's period, is that correct?

A That is correct.

Q And upon whose motion or whose request, considering the original letter of Mr. Fawcett's that submitted these applications to you and the seventy-five dollars. were these applications submitted to the Board of Pardons as a rehearing?

A The attorney for the five men filed new applications entirely and sent in seventy-five dollars. We returned the seventy-five dollars.

Q At that time he did not ask for a rehearing, did he?

A That is when he was asking for a rehearing, thinking that he had to file a new application.

Q Who?

A I would say the attorney for these five men, under the impression that he had to file a new application to get a rehearing, prepared five applications, sent them to us together with seventy-five dollars. The Board granted the rehearing.

Q Now just a minute. Before you go any further, from where do you get that information that that is what he intended rather than a new application for commutation, considering that the first application was for a pardon while they were not serving any time yet, and cases were pending before the Superior Court?

A He wanted a rehearing on the matter presented to the Board in September of 1955 and in error sent us five new applications.

Q Here is a complete file, Mr. Hean. Will you show me where there is anything in here before or right after he filed his application showing that what he meant was a rehearing?

SENATOR YOSKO: Mr. Kohn, may I ask a question?

THE WITNESS: Well I don't know what you call this; here it is.

SENATOR YOSKO: Mr. Kohn, may I ask you a question? Are you attempting to prove that there was a violation of Rule XII?

MR. KOHN: Am I attempting to prove that?

SENATOR YOSKO: Yes.

MR. KOHN: I am bringing out the facts in connection with Rule XII and the matter of what it constituted will have to be up to you.

SENATOR YOSKO: Now just let me make this one observation here, as I read the rule. I am reading (b), under "Communications," Rule XII, and it says: "The individual members of the board shall not discuss pending cases except with the trial judge" and that sort of thing. I am assuming that this applies to the merits of a case and not to the question of how you can file an application and when you can file it. In other words, it has to do with procedure.

MR. KOHN: I say to you, Senator Yosko, that if this is what Mr. Hean purports it to be it is a violation, because if you are asking for a rehearing on an application that is in effect and you are talking to a member of the Pardons Board, you are in that case asking for something that is pending for a rehearing.

SENATOR YOSKO: Had the application been filed?

MR. KOHN: The application had been filed and refused.

SENATOR YOSKO: And was there another application pending upon which a hearing was scheduled?

MR. KOHN: There was an application pending for a rehearing verbally before the Secretary, before Mr. Cohen, because the counsel had consulted with him about it and asked him to accelerate the hearing on the matter, so he must of necessity have requested that. If you are going to take the version of Mr. Hean and the Pardons Board, this was then to be considered as a rehearing and not a new application.

SENATOR YOSKO: The question is, was the application for a hearing or a rehearing on file and scheduled for a hearing.

ATTORNEY GENERAL McBRIDE: The testimony is that it was not. Of course, it was not.

SENATOR YOSKO: Then if it was not, this rule would not apply because I interpret this rule, as far as discussing pending cases, I interpret this as applying to the

merits of the case and the merits of a case could not be considered until an application was actually filed and scheduled for hearing. Now if this is a procedural matter, certainly this rule does not apply.

MR. KOHN: You say then where the Board or anybody else may reinstitute a case for rehearing, that is not pending until such time as the Board sets a date for a hearing?

SENATOR YOSKO: As far as a violation of this rule is concerned, I do not personally see anything wrong with any individual discussing with a Board member a matter of procedure.

REPRESENTATIVE BELL: Mr. Yosko, supposing when he discusses the matter of procedure with the member of the Board, he argues the merits of the case.

SENATOR YOSKO: Yes, but there is no evidence to that effect. Unless you could submit evidence to the effect that the merits of the case were argued with some member of the Board, then it just doesn't hold water. I am not going to presume that in the discussion between the Attorney General and the individual involved here that in addition to procedural matters, the merits of the case were discussed and I do not think we have a right to presume that.

BY CHAIRMAN TOMPKINS:

Q This letter dated December 21, 1955, do I understand that this case had been before the Pardons Board in the previous September?

A That is correct.

BY SENATOR YOSKO:

Q And the application was disposed of?

A It was and refused, Senator.

Q And then there was some inquiry made about filing a re-application?

A That is correct and the attorney, answering your question, had the impression that he had to file an entirely new application.

BY MR. KOHN:

Q Now, Mr. Hean. where would he get that? There is nothing in the file showing that, is there?

A I do not know where he got it.

Q Did you talk to him about that?

A Not to my recollection; I may have, but he had the impression that he had to file an entirely new application like these.

BY SENATOR YOSKO:

Q Then the inquiries that were made were made on a procedural basis?

A And we returned the fifteen dollars to him, or seventy-five dollars, and notified him when he came to Harrisburg that he could pick up forms that he had filled out.

BY CHAIRMAN TOMPKINS:

Q Well, what I am trying to find out is why in this letter of December 21, 1955, in which it refers to contact with Mr. Cohen, does he state that he filed the applications for a hearing, application for rehearing, and he also tried to find out from Mr. Cohen how he could possibly accelerate it.

Now it indicates that this conversation was had the day before these applications were sent in. Now if that were so, why were the applications sent in instead of application for rehearing?

A That I cannot answer, sir. I do not know.

MR. KOHN: Now what I am trying to get at and I think Mr. Thompkins gets the point—

BY SENATOR YOSKO:

Q When you did get the application for the rehearing, there was some defect in time element. You sent the money back and the applications, is that right?

A No, we sent back the money and the applications in effect because he had filed a petition for a rehearing, which I hold in my hand here.

BY MR. KOHN:

Q What was the date of that?

A That was stamped in our office, December 29, 1955.

SENATOR YOSKO: And what was the date of the letter to Mr. Hean, in which he mentioned Mr. Cohen?

MR. KOHN: December 21.

SENATOR YOSKO: And what is the other date?

MR. KOHN: December 21 and December 29.

CHAIRMAN TOMPKINS: And what was the date of the letter in which he returned the money and the application?

MR. KOHN: That was after he had received the petition for a rehearing, January 6, 1956, and what I am trying to discover, so that you know what I am driving at, is who took it among themselves and what happened There is nothing in the file to call this man's attention to the fact that there had been a mistake in filing an application which was not receivable except within a period of a year from that time. There is nothing in the file to show that he did something other than what he intended to do, and that was file an application for a commutation.

The first application was for a pardon. There is nothing to indicate in here what took place or why the Secretary of the Board of Pardons would consider an application, which was just the same as any other application, as an application for a rehearing.

REPRESENTATIVE LOPRESTI: Mr. Kohn, if I were to write to the Department and ask them for some way that I could expediate something or accelerate it, don't you think it would be the duty of the Department to inform me that there is another procedure which you perhaps do not know about and you could accelerate it by using?

MR. KOHN: I do not know. The man talked to the Attorney General and certainly he was qualified to advise him on it. What he did, I do not know.

ATTORNEY GENERAL McBRIDE: Let me notify the committee that the gentleman is here present, Mr. Robert L. Trescher, a highly respected member of the Philadelphia Bar. He is here in this room. He can take all the mystery out of it.

MR. KOHN: Mr. Chairman, I have a great deal of regard and respect for the Attorney General and I will always consider him very highly. I feel that we have a right to run our case and we do not have to call Mr.

Trescher or anybody else. We will simply present our case on the files and if Mr. McBride wants to put him on and make an explanation after we have finished—

ATTORNEY GENERAL McBRIDE: I am calling this to the attention of the committe so they will know there is a man right in the room that can clear this thing up. Surely the committee wants the full story.

BY MR. KOHN:

Q Now I direct your specific attention to the petition for a rehearing and ask you, in view of Rule VI, Section (b), what is in that petition for a rehearing that is not contained in the original application on which this particular Board of Pardons granted a rehearing? I am asking if there is anything in that petition for a rehearing which was not contained in the original application.

A The first change in the reply was that he originally asked for a pardon and now he is asking for a commutation. That is the very fundamental difference.

BY SENATOR SCOTT:

Q The question in my mind, is that done by a request for a rehearing or shouldn't that be done by a request for a new application? When you have the original application for a pardon, and then you want to change that after the pardon has been refused and you want to make a request for a commutation, is that in substance a rehearing on the original application?

A In reply to your question, when the Board refused the pardon in September and then came along a request for a rehearing based on the matter of a new plea. A pardon is a plea of absolute innocence and this is a request for a commutation of the sentence.

ATTORNEY GENERAL McBRIDE: Could I see it?

THE WITNESS: This is a request for a commutation of sentence.

MR. KOHN: It doesn't say that.

BY SENATOR SCOTT:

Q Isn't that in substance an application for something new?

A Yes, it is technically so, to be honest with you.

Q What is the procedure? Has the Board had this problem before it in other instances?

A I could not give you a specific reply to that. I have no doubt they have, but the Board felt that under the circumstances—and they have never disclosed their reasons to me—that it would be proper to have a rehearing on the application heard in September, the material, except that a new factor was introduced, to wit. a commutation rather than a pardon.

Q And when did that new factor come before the Board?

A It came before in the petition for a rehearing and then verbally before the Board of Pardons when it was heard in January.

BY CHAIRMAN TOMPKINS:

Q Now, Mr. Hean, wasn't this factor a procedural factor and not a factor relating to the facts or the merits?

A Well, in effect, I could not deny that, no.

Q There is nothing in this application for a rehearing that recites any different facts or merits than what there was?

A Not very many more, except this new factor there.

BY MR. KOHN:

Q Now, Mr. Hean, is it not a fact that this says specifically: "This application is for either a pardon or a commutation of my sentence. I still assert innocence," which he did in the original application, did he not?

A Yes.

Q And I believe the answer to question fifteen shows that: "I could not possibly have participated in the crime. However, I also assert as new and substantial grounds for clemency: 1. My prior clean record." That was in the original, was it not?

A That was.

Q "2. The sentence was excessive under all the circumstances." That was in the original application, wasn't it?

A I believe so.

Q And "3. My good behavior while confined." That was the only new—

A That and the fact that he had—

Q The fact that he had been in prison.

A That and the request for a commutation rather than a pardon.

ATTORNEY GENERAL McBRIDE: Now, Mr. Kohn, there is one more; the fact that the full Board of Pardons had not sat. You will be agreeable to that?

MR. KOHN: That is absolutely correct, the full Board of Pardons.

CHAIRMAN TOMPKINS: We will try and bring these things out here as we go along.

MR. KOHN: I am glad for that correction; I missed it.

BY MR. KOHN:

Q Now then who decided that on this particular application, under that rule, a rehearing should be granted on the original application?

A That would be the Board of Pardons.

Q And is there any record of the Board of Pardons having so decided?

A I have not, offhand. Yes, there is a record.

Q And the vote was divided two to two, is that correct, and that is sufficient under your rules to grant a rehearing?

A Two affirmative.

Q Where is that particular rule found?

A I cannot place my finger on it and I do not think you will find the vote required, but it seems to have been what we call a precedent; that if two members were in favor of a hearing, a rehearing, we would consider it.

BY CHAIRMAN TOMPKINS:

Q Now didn't you state at the hearing last week, Mr. Hean, that a quorum means two to three?

A A quorum constituted three; three constituted a quorum.

Q And you mean to say that you take action on things with a vote of less than a quorum?

A No, they were all there when this rehearing—I think the signatures on that are four signatures, are there not? Two were in favor and two were opposed.

BY MR. EVANS:

Q Would the court petition the Board on the particular rule? There is a Rule No. V, Section (b), requiring two.

A I see it now.

BY SENATOR SCOTT:

Q Mr. Hean, let me ask you this, sir. Is it a normal situation for an attorney to take up with a member of the Board of Pardons procedural matters or is it the normal situation that they take it up with the Secretary of the Board?

A To answer very fairly, it is usually with me.

BY MR. KOHN:

Q Will you refer to your original record in this case and tell me who was present and voted on the refusal of the original application of September 1955?

A My original record does not disclose that. Let me just leaf through this a minute. I may have a note here.

Mr. Cohen had to leave the meeting of the Board, sitting—starting with Case 126 and was absent.

Q He was one of those favoring a rehearing in this case without having heard the original application?

A That well may be.

Q Is his signature on there as favoring it?

A I see an initial on there that looks like Mr. Cohen's initials.

Q I call your particular attention to the letter from yourself to members of the Pardons Board, dated December 29, 1955, in which you ask for a vote on the matter of rehearing, is that correct?

A That is correct.

Q Is this the original, Mr. Hean?

A Yes sir.

Q And in this particular question of whether or not a rehearing should be granted, you discuss the facts and set forth the basic factors upon which a rehearing should be granted or should not be granted in your letter to them, do you not?

A Well, sometimes I do and sometimes I do not. This particular letter I haven't read recently, so I would not know what I said there. You read it to me.

Q Your communication of December 29 to the Board of Pardons is as follows:

"The above 5 applications were heard and refused at the September Session.

"You will recall that these 5 men were involved in Delaware County in the Riot on the site of the old Jail which was being torn down. It was a Union Labor dispute with a Contractor and these men, members of the Union, came down from Philadelphia to do picket duty. Just previous to their arrival there was a riot in which property"—you say "Just previous to their arrival there was a riot in which property was destroyed and persons assaulted.

"The above group allege that they did not participate in the actual rioting. They were arrested on their way back to Philadelphia.

"At the September Hearing, there was pending the Appeal to the Superior Court. Shortly after the Hearing, the Superior Court upheld the decision of the Delaware County Court. These men were sentenced to the Delaware County Jail. Their sentence was $1500 Fine and Two (2) years in jail. They have commenced serving their sentences along in October 1955.

"They are requesting a Pardon or a Commutation.

"They are asking for a special listing for the January Session—18th and 19th—1956."

Now you did not forward with this letter the petition for a rehearing, did you, to the members of the Board?

A I have no recollection of so doing.

Q And you designated this crime as a "union labor dispute," did you not?

A I probably did, yes.

Q Do you know if there was at that time any dispute of any kind between labor and the contractor here?

A All I know is what was stated at the September Session of the Board; that there was a discussion or trouble between the contractor who was tearing down the jail and the union labor. That is all I know.

Q Did you get that out of the notes of testimony or where did you get that?

A Well I got it somewhere.

Q Well do you know where you got it?

A Not offhand, no.

Q Pardon?

A Not offhand.

Q Well would you find it for me over the lunch hour?

A If I can.

Q And where did you get the information that you set forth on this basis for a rehearing that these men had arrived after the riot had taken place?

A All the information I got is what I heard at the meeting.

Q Do you know where you got that information?

A Only what I heard at the meeting in September.

Q So that the Board, in considering whether or not there should be a rehearing, had only your letter before them, is that correct?

A Probably so.

Q That is what you said.

A That is what I said.

Q Now these cases were put at the foot of the list for Wednesday, I think January 18, were they not?

A Well they were put on the January list at least.

Q Well will you just check your records, please, 46A?

A Yes, 46A, B. C. D. and E.

Q They were not on the calendar that was advertised and distributed?

A That is correct.

Q And they were not listed with the Delaware County cases which were listed for a previous time and I think on that same day?

A Oh, you asked me a question; I beg your pardon.

Q I am waiting for your answer as to whether or not they were put at the end of the list for a certain day.

A They were—we had the Delaware County cases starting at No. 41, 42, 43. Then there was a skip. One was continued, Montgomery. Then we put after Montgomery, the Delaware cases of 46A, B, C, D and E.

Q You heard the Montgomery cases in between the regular scheduled Delaware cases? That was at the end of the day after everybody had gone.

A Oh, I would not know. I have no recollection of that.

Q I show you copy of a letter dated January 13, 1956,

addressed to you by J. Harold Hughes, Assistant District Attorney, and ask you whether you ever received that letter?

A I have; according to my book here on January 18 was listed every case up to and including 47, but not including 47. This is my list here, that that day of the 18th—now pardon me for not answering your question, Dave.

Q What I asked you is whether or not you received that letter from the Assistant District Attorney, J. Harold Hughes of Delaware County?

A I did.

Q Where is that letter? I cannot find it in the files.

A I do not know where it is if it is not in the file.

Q Where would you keep it? It has not been in the files.

A Well if it is not in the file, then I do not know where it is. It may have been lost.

Q Did you acknowledge receipt of it?

A I acknowledged such a letter.

Q Did you answer that letter?

A I have no recollection.

Q In that letter Mr. Hughes asked you to list these cases, which were specially set by the Board, with his other cases of Delaware County?

A That is right.

Q Did you do so?

A With the one case interfering; that is the Montgomery County, the Montgomery County case that came in between the Delaware cases.

Q Who decides whether or not you should comply with a request of a district attorney who wants his cases listed with his other cases?

A I decide all that.

Q You decide it. You made no answer to that letter?

A I have no recollection. I may have but I have no recollection.

CHAIRMAN TOMPKINS: Mr. Kohn, may we see that letter?

MR. KOHN: Yes.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Hean, was the Assistant District Attorney of Delaware County present at the time?

A There was a representative by the name of Hughes from the District Attorney's office.

Q And he was present at the hearing?

A He was there present.

Q And the only question was whether they were heard five, ten or fifteen minutes later?

A That is right.

BY SENATOR YOSKO:

Q This is nothing more than a request for a convenience.

A That is right and he was given—we started with case No. 41. We had—41, 42, 43 were Delaware cases. Then there was the interruption of two cases or three from Montgomery, and then we picked up the five cases we have under discussion here.

BY SENATOR SCOTT:

Q All in the same day?

A All in the same day; probably not more than twenty minutes difference between one and the other.

BY MR. KOHN:

Q In your correspondence with the District Attorney of Delaware County, I show you letter dated January 6, 1956, I think that is. Is that the official letter you wrote to the District Attorney of Delaware County in regard to these cases?

A Yes.

Q In this letter you also characterized this matter as a Delaware County labor dispute?

A Yes.

Q Did the Board and you consider this matter as a labor dispute or as a matter of criminal offense, a riot and destruction of property?

A I do not know what the Board considered it; place it on me. I considered it a labor dispute.

Q And did you take part in the discussions of the determination of this case?

A No sir, do you mean whether I voted? No, I have no vote.

Q Did you discuss the matter with the Board outside of the particular letter you sent them characterizing the crime? Did you discuss the matter with them in regard to the facts that characterize this crime as a labor dispute?

A I have no such recollection of discussing with any member of the Board.

Q Did you have any discussion or did you hear any discussion between the Board in their executive session characterizing this as anything other than a crime?

A I would say that after hearing the September cases, in which the whole factor of this labor business was involved, that there may have been in the executive session somebody say that this is nothing but a labor dispute between union and non-union forces in the demolition of the Media County or Delaware County jail.

BY CHAIRMAN TOMPKINS:

Q That did not appear in the record any place that came before the Board, did it?

A I did not get that, Mr. Tompkins.

Q These men were convicted of certain crimes, conspiracy and rioting.

A Yes they were, of rioting I believe was the—

Q Whether it is a labor dispute or whether it arises from some other cause, certainly the consideration should be of the offense with which they are charged, not something else, shouldn't it?

A Well I will leave that question to the Board members. I am not here to decide that, sir. It is a labor dispute. You may call it anything else.

SENATOR YOSKO: But regardless of what Mr. Hean had to say, a hearing was to follow and the Board members were sitting and they heard the arguments of both sides for the petition and against the petition, so that I cannot see that anything Mr. Hean would say in the letter would have any influence on the final decision of the Board. Now what we ought to do is call the Board and find out from the Board why they arrived at a decision.

MR. KOHN: Senator Yosko, I am going to put into the record the Board's reasons.

SENATOR YOSKO: Well it is still the Board. What has it got to do with Mr. Hean? I think Mr. Hean did testify that he prepares the preliminary report for the Board and it is circulated amongst the members, and they amend the final opinion with Reasons as they see them and I think he testified here that the final product that is handed down and placed on file is the sole action of the Board and not the action of the Secretary. We have that in the record now.

CHAIRMAN TOMPKINS: Let us proceed with this witness and see what Mr. Kohn has.

BY MR. KOHN:

Q Now I ask you whether or not there is a letter from Harry R. Halloran, dated January 16, 1956, in the files of this case?

A Yes sir.

Q And Mr. Halloran addresses this to Roy E. Furman, Chairman, Pardons Board, is that correct?

A That is correct.

Q Mr. Halloran characterizes himself as Chairman of the Labor Committee of the Contractors Association of Philadelphia and Eastern Pennsylvania, and former Chairman of the Joint Committee of the Employer Associations, is that correct?

A Yes.

Q And he asked for favorable consideration from the Board, is that correct?

A Yes.

Q And was this letter considered in the deliberations of the Board?

A Was it in the file? What was the date of the letter? I have no doubt it was; I have no present recollection of it.

Q Now I show you a copy of the commutation statement of the Board of Pardons in this particular case, and ask you if that is the copy in your files?

A It was in the folder, was it Mr. Kohn? Well, yes, that is the copy in the file.

Q Or would that be a copy of the original that was sent to the Governor?

A That is a copy of the original that was sent to the Governor.

Q And I ask whether or not, under part of the Reasons given on this recommendation, it reads as follows for the reasoning—by the way, who made up that phraseology in the reasoning?

A My recollection is that I wrote this in draft. There were some corrections made and I cannot tell you who did them or who did not, and as a result of it this is the copy which was signed by the four members of the Board.

Q And it was approved as hereon set forth, is that correct?

A Yes.

Q I ask you whether or not, giving the Reasons for the commutation, it does not read as follows:

"At the time of the trial the feeling of the citizens of Delaware County was such that the Court and Jury were undoubtedly influenced by the attitude of the general public. As this applicant and his accomplices were the only persons arrested they bore the burden of the resentment of the community despite their vigorous denial of any implication in the riot."

I ask you, Mr. Hean, whether you or anybody else in considering this case ever found anything in the record showing that the court and jury of Delaware County were undoubtedly influenced by the general attitude of the general public?

A All I know is what I heard.

Q That is what I asked you previously.

A You asked me whether I found it. I was not present at the riot or at the trials in Delaware County.

Q I understand that but I also understand that in the reasoning given by the Board for granting this commutation, they came to the conclusion that undoubtedly the court and jury in this case had been influenced by the attitude of the general public and what I am asking you specifically is, is there anything in the record that would justify such a conclusion or statement?

A If I had before me—of course, that is the entire file that I have but there were statements made with respect to the—

Q By whom? I ask you wheher you can find anything to that effect anywhere in the file or any of the records which were submitted to you or the Pardons Board in this case?

A Mr. Trescher was—presented it.

MR. KOHN: There is the record.

CHAIRMAN TOMPKINS: When you speak of the record, what record is that?

MR. KOHN: That is the record of the statements made by counsel before the Board of Pardons and the complete record and file of the application, letters submitted and all other records which he has testified that go with the Board of Pardons record in the consideration of any case. They are compiled and made a part of the record.

ATTORNEY GENERAL McBRIDE: But that is the second hearing, is it not?

MR. KOHN: This is the January hearing on the rehearing.

ATTORNEY GENERAL McBRIDE: That doesn't include the first hearing.

THE WITNESS: I cannot find it in there, Mr. Kohn.

BY MR. KOHN:

Q Can you find any statement for me which would say that these five men bore the resentment of the community?

A It was so alleged in one of the hearings. I believe Mr. Trescher so testified, so stated.

Q Do you have copies of it?

A I have not a copy of it here, and I cannot find the copy or tell you where the copy is or why it is not here.

Q It was then upon the allegation of counsel that the Board came to the conclusion that these five men bore the resentment of the community?

A I would so say.

Q And there was no investigation made of the community?

A No investigation of the community.

Q Or any person involved, the victim or any of his relatives?

A Not to my recollection, if I may look at this a minute. No, I cannot find it.

Q You cannot find that anywhere in the record, can you?

A No.

Q Is it not a fact that the District Attorney's office appeared and opposed this particular commutation?

A Yes, sir.

Q Now is it not a fact that the judge also sent in a letter opposing these commutations?

A I believe so.

Q And isn't it a fact that the only other letter in the file beside the one I mentioned is a letter from the Delaware County Prison, stating that these men had good behavior?

A Yes.

Q And isn't it a fact that each and everyone of those letters was identically alike, characterizing each particular individual alike in each instance?

A That is correct.

BY SENATOR SCOTT:

Q Are there any newspaper clippings in the file?

A On that, no sir.

BY MR. KOHN:

Q How long had these men served before their time was commuted?

A It was redued to six months from a two year sentence, effective about April 13, 1956.

BY SENATOR SCOTT:

Q Mr. Hean, can you tell me whether the decision was made by the Pardons Board on the same day that the hearing was held or was it one of those that was held over for further discussion and consideration?

A No, this—to be sure of answering your question—case here, the same day late in the afternoon, they came to the decision.

CHAIRMAN TOMPKINS: May I see those Reasons under there?

BY SENATOR SCOTT:

Q Now, Mr. Hean, as I recall your testimony, you said that the fact that there was evidence back in the community which influenced the jury and so forth was brought out, and you remember hearing that?

A I remember hearing it, yes sir.

Q At which one, the September hearing or—

A At the September hearing.

Q Do you remember whether that was one of the reasons which was alleged for the original pardon?

A Not in the application itself, as I recall.

Q But was it argued by counsel at that time?

A I think it was brought forward. It was not labored you know, but it was brought out.

Q Do you recall hearing such a statement or such a fact being denied by whoever opposed the pardon at that time?

A I do not recall that but the general opposition of the District Attorney would infer that there was no—

Q And the Board did not look into that matter further, is that right?

A No, we did not outside of—

Q As far as investigation is concerned?

A We have no facilities for investigation, sir.

Q Now there is one other thing that I am not clear on, Mr. Hean. At the time that this application was filed as an original application the second time, the Board evidently decided it should be an application and considered it as an application for a rehearing, is that correct, and so decided?

A I have not made myself clear and it is my fault. There was an original application filed in September, heard and refused.

Q That is right.

A Then from the facts brought out here this morning, Mr. Fawcett I think interviewed and talked to the Attorney General as to having a rehearing. He was under the impression that he had to file a brand new application. He so did and sent us seventy-five dollars. All he wanted was a rehearing which requires no fee and is based on the facts as we have collected in the former hearing within the year.

Q And then the Board considered it as an application for a rehearing and sent back the check and sent back the applications for the new application.

A Is that clear?

Q I am clear up to that date. Then you forwarded a letter to the Board giving them information. Was there anything filed or was there anything that you gave to the Board which would indicate that there was new evidence or new matter which should be considered or which would be brought before the Board at the time of the rehearing?

A This petition for a rehearing is attached to that letter.

Q That is what I wasn't clear on.

A I have every reason to believe it was. That is our practice anyhow, with a run-down there as I have it in the letter which Mr. Kohn read to the Board of the background of the case.

Q Was one of the reasons alleged in that petition for a rehearing the fact that back in the local community the jury—

A Not in this petition for a rehearing, no it was not.

Q What were those reasons again? I didn't follow.

BY CHAIRMAN TOMPKINS:

Q Had the Superior Court as yet handed down its decision as yet at the time of your September hearing?

A No, I think that came down along in October, late October of the same year.

Q Well now had these applications been treated as new applications, the earliest that they could have been heard would have been sixty days.

A If they had been brand new applications, it would have been one year from the date. We do not consider applications except on year's interval. Rehearings are heard as often as the Board—

Q This rehearing was adopted then as a method to accelerate consideration of this case, was it not?

A Yes so that the year did not have to elapse.

Q In how many cases do you know of, Mr. Hean, is that practice followed?

A In very many; I would say every Board hearing, every session of the Board has cases we list as rehearing cases that have been heard within the year. That is, a year has not elapsed since the last hearing and we have rehearing cases. There is not a session of the Board goes by that such—

Q Well in those cases, have you run into the same procedural problem as when they filed new applications or have they filed—

A Some times yes, the attorney or representative was laboring under a false impression, not a false but a misapprehension of the problem and we straighten it out by doing it in this manner, an informal letter.

Q I want to get something straightened out in my mind, too. I believe you stated that at one of these hearings—I do not know which, September or January—Attorney General Cohen had to leave the bench and did not return.

A I think that was in September.

Q That was in September. The reason I asked that is that this Reason filed here on your January hearing indicates that Mr. Cohen had signed this commutation.

A That is right.

Q That would indicate that he was present and heard the case?

A He was present, yes sir; that is right.

BY REPRESENTATIVE BELL:

Q Mr Hean, where is the testimony or transcript of argument, or whatever you call it, of the original September hearing?

A I bow my head in shame and tell you it was taken by a man by the name of Kenny, and Mr. Kenny has never transcribed it despite letters and phone calls.

Q Now were the five cases heard separately?

BY SENATOR YOSKO:

Q Who is Mr. Kenny?

A He was an employee of Eugene Moyer, the official reporter I think they call him. We use his services.

BY REPRESENTATIVE BELL:

Q In other words, did you take different notes on five different cases in the September hearing or just one case?

A They grouped the whole five into one.

Q Into one set of arguments?

A Yes, the whole five. The same facts were present and they just had the five together.

BY MR. KOHN:

Q In this other matter, Mr Hean, isn't it a fact that as far as granting of the rehearing is concerned, the Board was evenly divided two to two?

A That is correct.

Q And in the granting of the commutation, the Board went along unanimously?

A That is correct.

Q The Board did not have before it any testimony as to what was taken at the original hearing, because those notes have never been transcribed?

A May I say just half of them were? This fellow Kenny got sick and God knows where they are.

Q Just answer my question. Isn't it a fact that there is no record which the Board could have gone to to find out what was said at that particular hearing?

A That is correct.

Q And in spite of that, the Board found in their findings certain Reasons not on record and which were not available to them and which hark back to the first hearing and were not mentioned at all in the second hearing?

A Was that a question to me or to the Board?

Q I am just asking you if the Board did not make findings based on testimony which was not available to them and which they do not know is correct or not correct, because the testimony or the statements were never transcribed and are not available?

A But the members of the Board still had the faculty of memory. They still possessed that at the time.

Q How many cases would you say they heard between January and September of that year?

A Oh, probably I would say they would hear about 400.

Q Four hundred.

MR. KOHN: I have no further questions.

BY CHAIRMAN TOMPKINS:

Q Do you think it is good practice—this is no criticism of the Board and I admire their mental capacity—but do you think it is a good practice to make final decisions on memory alone?

A They make it very promptly. In ninety-nine out of one hundred cases right after the formal sessions, they go into executive session and their memories of the case are certainly very fresh.

Q But you are saying there that in January they were referring their minds back to September.

A Back to September, that is correct, and my memory was good then and I am not blessed with too good a memory.

BY SENATOR YOSKO:

Q Mr. Hean, when you sit in executive session after the hearing, do you note if the Board members make notes on what is said at the hearing?

A I think they do, many of them do.

Q And do they refresh their memory from the notes they take?

A They would refresh their memory from that, yes sir.

Q Was that possible in this case?

Q Very possible.

Q In the absence of the transcription of the testimony?

A Very possible; I have never looked at the Board's own book binder similar to this to know what they have in it, but I have every reason to believe they make notes as they go along.

BY SENATOR SCOTT:

Q Well, Mr. Hean, let me ask you this, sir. Was the argument of the incitement of the jury raised at the rehearing?

A I do not believe so.

Q In other words, it was raised at the September hearing and evidently was rejected as not being too valid because the Pardons Board at that time refused.

A Three noes.

Q And then it was not brought up at the second hearing in January.

A This record does not disclose it.

Q Because if it was brought up at the second hearing in January, there was nothing said about it and yet that is one of the reasons why the Pardons Board—

A I can only say that their memory, together with what notes they may have made in their binder of the case heard in September, would help them refresh their memory and certainly my statement in the Reasons passed before four members of the Board and if it was in error—I could be in error and frequently am—it certainly would have been corrected.

REPRESENTATIVE LOPRESTI: Then, Senator, in your remarks there, of course, I do not think you make allowance for the fact that September was for a pardon and while you may not have considered it worthy as far as the Pardons Board was concerned in commuting the

sentence, dropping it from two years to six months, which allows some penalty to be attached to the individual.

SENATOR SCOTT: What I am bringing out is that it evidently was not even brought before the Board at the January meeting and there is nothing to indicate that the testimony to refresh their memory was brought before them at the September meeting.

REPRESENTATIVE LOPRESTI: They may have ignored it in September.

SENATOR YOSKO. I know, Senator Scott, isn't that something that the Board members ought to be asked about instead of Mr. Hean? Mr. Hean certainly has no control over their memories and the records that a Board member might keep.

SENATOR SCOTT: I was not questioning him what their memories were. I was questioning him about certain facts.

SENATOR YOSKO: Yes, I understand.

MR. KOHN: Well in answer to Senator Yosko, the only thing that I was pointing out was that this phraseology and reasoning had been approved by each member of the Board and I have to take it as I find it; that is all. Of course, he draws it up and circularizes it.

I have nothing further at this time, Mr. Hean.

ATTORNEY GENERAL McBRIDE: Am I in order at this time, Mr. Chairman?

CHAIRMAN TOMPKINS: We want to clarify at this time the position of this committee regarding matters which were raised by the Attorney General. The committee has decided that it had no purpose or designs to invoke any gag rules in this investigation.

ATTORNEY GENERAL McBRIDE: Good.

CHAIRMAN TOMPKINS: We do, however, from what we have placed in the record raise the issue of conflict of interest in connection with counsel for the Board. So with that, Mr. Attorney General, you may proceed.

ATTORNEY GENERAL McBRIDE: I would simply say as to conflict of interest, I see none with the Board's position, and it would be just like the prosecution saying who the defense lawyer would be if it was said to be a conflict here, but in any event I will go ahead then.

CHAIRMAN TOMPKINS: We do not want any impressions to get out that we considered the conflict of interest as being nonsense.

ATTORNEY GENERAL McBRIDE: I mean no reflection on the committee, but I must say that I think the suggestion that there is a conflict is nonsense, Mr. Chairman.

CROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Now, Mr. Hean, rehearings are not something new invented by this Board of Pardons, are they?

A Oh no, they have been going on since the Board ever existed.

Q And Exhibit No. 1, which was the printed copy of the Board of Pardons, I see where certain rules were adopted February 20, 1935 and revised as late as October 1951.

A Correct.

Q Now that provides for rehearings, does it not?

A It does.

Q Now the rule that was embodied in Exhibit No. 2 is a stricter application than before, is it not?

A Very much so.

Q So that this present Board has been cutting down on the reasons which will warrant rehearings?

A Very much so.

Q Now we come to the question of when applications are refused. Does the Board ever record the reasons for a refusal?

A I have never so recorded them in my experience

Q Is there any constitutional, legal or rule requirement that any reasons be stated when an application is refused?

A There is none to my knowledge.

Q Is the requirment of the Constitution only that the reasons shall be publicly stated and filed in the office of the Secretary of the Commonwealth only when the application is granted and the recommendation is made to the Governor?

A That is the only requirement and we follow it.

Q Now coming to the question of victims, have you ever known not only this Board, but any prior Board to notify victims of the pendency of applications?

A I have never and I have served, Mr. Attorney General, under sixteen different persons sitting on the Board of Pardons from time to time and never in my experience, going back to 1936, have we ever had any inquiry made among the victims or their relatives.

Q Isn't it looked upon as being the duty of the District Attorney to whom notice has been sent that if the victim's views are sought, he would see to it that the victim is present at the Board of Pardons to register a public protest?

A It frequently happens that relatives of the victim, that is in murder cases particularly, come there through their attorney or some relative of the deceased and express their opposition to any clemency by the Board.

Q Did that just occur this past month?

A Yes indeed.

Q And when the relatives or friends of any victim or a victim himself appears, does the Board hear him or her fully?

A Very much so.

Q Now the question of advertisement has come up. You have testified that no one instructed you as to what particular publication you should use, is that correct?

A That is correct.

Q Now have you from time to time received solicitations of such subscriptions?

A You mean for advertising?

Q Yes.

A Yes.

Q From newspapers?

A From newspapers.

Q Have you just gotten one recently?

A Yes, I did.

Q Where from?

A Philadelphia Inquirer.

Q Now you say that the preliminary draft which you draw up represents the sense, that you sense the feeling of the Board, but is it not a fact that you being present at the executive session hear the discussions among the members of the Board?

A I do, sir.

Q Do you use that as a guide in drawing your preliminary draft?

A Yes, I draw on the sense of the members of the Board as they may favorably consider an application.

Q Now turning to capital cases, you have indicated that there is fast action in capital cases.

A That is correct.

Q Isn't that necessary by reason of the fact that the execution is usually pending a few days after the Board sits?

A I think that is the basis for the rule that two weeks, instead of the usual thirty days—now sixty days. That is the reason.

Q You put capital cases on the list two weeks after the application is filed?

A That is correct.

Q But then after they are heard, are they particularly disposed of?

A They are the first cases. The Board considers that case number one in executive session and communicates its general idea to the Governor's office and then we subsequently write the Reasons for our position.

Q Now coming back to this question of advertisement which the Chairman raised and indicated the desirabilty of putting the advertisement in each folder, now is each case advertised separately or, as in the case of Philadelphia, does one advertisement cover as many as thirty cases?

A One advertisement will cover the entire list of persons who will be heard at that meeting of the Board who had been sentenced from Philadelphia County. It may be eighteen or it may be fifty.

Q So that when you get your proof of publication if it is eighteen, you do not get eighteen separate proofs which you can file with each application?

A That is correct.

Q You get one proof of publication concerning the whole eighteen men?

A That is correct.

Q So that what you would have to do would be to require, if you were going to put it in the folder, eighteen separate proofs which newspapers do not customarily furnish.

A That is correct.

Q Now you have been asked whether or not there were any recommendations of the Board of Pardons which were not approved by the Governor and you answered as to the present Governor. Do the records of the Board of Pardons disclose recommendations by a past Board subsequent to 1950, the inquiry period we are going through, where the Governor did disapprove a recommendation?

A The records of the Board indicate that the Governor has disapproved the recommendations of the Board and we have such records.

Q Were there any particular notable ones during the year 1954?

A Not during the year—yes, during the year 1954, yes, sir.

Q What was that situation?

A That was the famous Charles Payton case.

Q And what recommendation was made?

A The Board of Pardons recommended a commutation of that sentence and the Governor refused to approve of the recommendation.

CHAIRMAN TOMPKINS: Now we think that record should be brought in here to speak for itself.

ATTORNEY GENERAL McBRIDE: That is what I think, too, Mr. Chairman. There are many such—I am delighted at the opportunity afforded me of bringing such records in.

BY ATTORNEY GENERAL McBRIDE:

Q Now, Mr. Hean, we go to the case of Mr. McSorley and the others. When this application was first filed, these men were not in jail at all, were they?

A They were not in jail.

Q Now at the September hearing, they were not in jail?

A They were not in jail.

Q They were out on bail pending the decision of the Superior Court?

A That is correct.

Q The contention made by counsel at that case was that these men were absolutely innocent?

A That is correct.

Q And that is why he was asking for a pardon?

A That is correct.

Q And was the counsel who made that contention—will you stand up Mr. Trescher?

(Mr. Trescher arose.)

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Trescher who you now see standing up here.

A I recall his face, yes sir.

Q Now at that hearing before the Board, didn't the Board take the position that as a matter of policy they would not want to consider the application because the men had not yet gone to jail and they did not want to create a precedent?

MR. KOHN: Mr. Chairman, I have no objection to Mr. McBride cross-examining, but I do not think that that is a statement of fact. It cannot be corroborated by the record. I think the record is the thing that speaks for itself.

ATTORNEY GENERAL McBRIDE: That is where you are wrong. The record shows that that is absolutely true. The record shows that it is true. Mr. Finnegan will personally testify to it; so will the members of the Board.

MR. KOHN: I think the record should show that rather than—

ATTORNEY GENERAL McBRIDE: There are two ways of showing it; one is what the Board itself did. He knows what they discussed. The Board is here and they know what they discussed.

CHAIRMAN TOMPKINS: If there was a record made, we think the record should be brought before the committee.

ATTORNEY GENERAL McBRIDE: So do I but you see, Mr. Tompkins, I have just already explained where there is a refusal, as there was here, no record of reasons for the refusal is made. Now I am asking him whether, despite the fact that there isn't a record, isn't it a fact that the turn down in September was on policy reasons, because that is the thing that Senator Scott was interested in finding out. There was no record made of the reasons but he has personal knowledge of what moved the court to act. Senator Scott I thought was particularly interested in that question.

SENATOR SCOTT: I think it might be well to establish that he was personally present so that he would have knowledge of that. So far, we have not heard that he was present.

ATTORNEY GENERAL McBRIDE: Very good, sir. I assume that he has testified that he was present at all executive sessions.

BY ATTORNEY GENERAL McBRIDE:

Q Now in any event, Mr. Hean, were you present—

MR. KOHN: I am not objecting to the question or the answer. I am objecting to the manner of eliciting it by putting words in his mouth, and telling him what happened and then asking him and saying, "Isn't that what happened?"

ATTORNEY GENERAL McBRIDE: You have agreed that I am cross-examining him.

Mr. KOHN: It is not cross-examination.

ATTORNEY GENERAL McBRIDE: Are we going to be more strict than we are in court, Mr. Chairman?

Mr. KOHN: No, but you are trying to build up through this man a statement of what happened when there is no record and you are asking him if that did not happen. In the first place, it is not proper cross-examination because I did not bring out anything on it, what actually took place or how they voted. There was no record except the results thereof.

CHAIRMAN TOMPKINS: The committee is not bound by strict technical rules of evidence because some members of the committee are not lawyers and those who are, are mere legislators anyhow.

SENATOR SCOTT: I have no objection to leading questions by either counsel.

CHAIRMAN TOMPKINS: I do believe that your questions have been very leading, Mr. Attorney General.

ATTORNEY GENERAL McBRIDE: They are cross-examination. Leading questions are always asked on cross-examination.

REPRESENTATIVE BELL: Do you represent Mr. Hean?

ATTORNEY GENERAL McBRIDE: I represent the Department of Justice.

REPRESENTATIVE BELL: You are cross-examining your client.

ATTORNEY GENERAL McBRIDE: What is the difference? He was called by the committee, but need we argue that?

SENATOR SCOTT: We are interested in one thing only, in bringing out the facts. Now if the facts have to be brought out by leading questions by either Mr. Kohn or by Mr. McBride, I have no objection.

BY ATTORNEY GENERAL McBRIDE:

Q All right now, Mr. Hean, is it or is it not correct that the refusal of September was based upon the policy reason that the men had not gone to jail, had served no time and in effect the Board was asked to grant them a pardon while the case was pending in the court?

A I think the latter part of your statement is correct; that the Board as a policy, while the case was pending in the appellate court, hesitates to grant any clemency or recommend any clemency while that case is still in the appellate court, which, in this instance, the five cases were before the appellate court of this State.

Q Now at that hearing it had been brought out that Mr. Kohn did not sit. There were only three members of the Board who sat.

A As I recall dimly he had some engagement that compelled him to leave during the afternoon early and he did not sit for those cases and, therefore, of course when we consider them in executive session, he did not vote.

Q Now is there to your knowledge any rule or practice of the Board of Pardons which prevents a member from talking over purely procedural matters of how to get a case on the list and when it will get on the list?

A There is no rule to that effect and secondly I see no objection, and no one else does, to an interested person to discuss a matter with the Board as to procedure.

Q. Now it has been suggested that the hearing was held at the end of the day after everybody had gone.

A It was held at the end of that afternoon; yes sir, it was.

Q Was there due public notice?

A There was no advertising made of the rehearing, but the notice was certainly in the hands of the district attorney and the judge and interested persons.

Q And did you have before you the position of the judge?

A I do not believe we did. I will check with it. Nothing from the judge. We had the Assistant D. A. there.

Q That is Mr. Hughes, who is present in the room here?

A Yes.

Q Now was there a full argument held on this rehearing?

A It was not too long; there was a discussion of it.

Q Was it a public argument?

A It was a public argument.

Q And was there consideration of both contentions given thereafter by the Board?

A There was, in executive session you are referring to?

Q Yes. Now on the issue of whenever rehearings come up before the Board on the question of whether or not they should be granted, has it been the regular policy that you do not have to get a majority to get a rehearing?

A I believe the rule provides two of the four members will agree to a rehearing, it is placed on the list.

Q But to get favorable consideration either on an original hearing or a rehearing it requires not less than three?

A That is for a favorable recommendation.

Q And that is the constitutional provision of Article IV, Section 9?

A That is correct.

Q Was that done in this case?

A That was done in this case.

Q Do you know of anything or has anything been brought to your attention that you consider to be improper in the consideration of this Delaware County case?

A I know of nothing and I will swear that on any stack of Bibles you provide, Mr. Attorney General. There was nothing improper that ever came to my attention either directly or indirectly by inference or innuendo.

Q Is there the slightest doubt or was there the slightest doubt at any of these hearings, particularly the first one, that this was in fact a labor dispute?

A There was no question in the mind of those that listened that afternoon that it was a labor dispute.

Q Whether or not the conduct of particular persons had spilled over into criminal conduct?

A They spilled over into this riot in Media.

Q But was there at any time a contention on the part

of these men that they were guilty of riot or did they contend always that they were innocent?

A They contended always absolute innocence.

ATTORNEY GENERAL McBRIDE: I have no further questions.

REDIRECT EXAMINATION

BY SENATOR SCOTT:

Q Did you say, sir, that a rehearing can be scheduled on the authorization of two members of the Board and it is in the rules?

A That is in the rules.

Q I would like Mr. Hean to point out exactly where it is.

A "For cause shown, the Board, with the approval of two members, may specially list applications for hearing if filed at least three weeks before the regular session at which hearing is desired."

Q Which section is that?

A Five (b).

Q And what is Section V labeled?

A Section V, you want the label, "Original Cases."

Q And what is Section VI labeled?

A That is "Rehearing Cases."

Q And aren't we discussing rehearing cases?

A That is true but we run them together.

BY CHAIRMAN TOMPKINS:

Q When was the January hearing on this matter?

A You mean the date, 18th and 19th; either the 18th or 19th.

Q I guess it was the 19th.

A The 19th was it?

Q When were these applications for rehearing filed?

A About December 28, somewhere along in there. December 29, James Evans tells me.

MR. EVANS: I believe it is stamped in your office.

THE WITNESS: Then that would be the official stamp then, Jim.

CHAIRMAN TOMPKINS: Where is the application, the notes that they have there? The two vote there is what I am looking for.

THE WITNESS: Shall I hand it up to you? You will excuse me.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, how many will appear before the Board and who have gone through trial are there that do not protest their innocence?

A Well I would say that every person, with a few exceptions, is always innocent, naturally.

BY MR. KOHN:

Q This matter of rehearing was especially set by the Board in this case for January 18.

A Yes.

Q Ordinarily filed at this time would have gone over for a month at least.

A That is correct.

Q Do you know what the reasons of the Board were to accelerate this hearing at this particular time, giving the district attorney such short notice?

A I have no information.

Q I think you stated in answering Mr. McBride that the judge was also notified in this case of the rehearing?

A I understand that.

Q Is there anything in your file?

A No, but only as a practice. It is a form letter we send out.

Q There is nothing in the file which states that he was not notified?

A No, that is correct. We send a form letter.

ATTORNEY GENERAL McBRIDE: Could I ask one more question? Are you finished?

RECROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q You have among the papers in this particular case a report?

A I do.

Q And I am pointing out to you that report, am I not, dated August 29, 1955?

A That is correct.

Q That is before the September meeting?

A Before the September meeting.

Q I read one sentence from that report: "This incident arose apparently because of a dispute concerning unionism." Is that correct?

A That is correct.

Q And is that an official report?

A That is an official report.

MR. KOHN: Made by an investigator of the Parole Board

FURTHER REDIRECT EXAMINATION

BY REPRESENTATIVE BELL:

Q Well, Mr. Hean, I am a little puzzled now on Section V of the Rules of the Board of Pardons. My interpretation of this—and again I am only a Legislator—is that this applies only to specially listed original cases.

A That is true. However, in these rehearing cases in order to get an expression of opinion in writing, as you just noted, we somewhat followed what was done, the setup in the original case; two members would indicate.

Q In other words there is nothing in the printed rules that cover this specific case?

A On rehearing, we have used the rule of thumb as expressed in Rule V where two members would be persuasive in listing it.

BY SENATOR SCOTT:

Q Two members specially listing?

A Either specially or rehearing. We have not gotten into the special listing at all. This is rehearing.

BY REPRESENTATIVE BELL:

Q Will you show me in paragraph V where it says for rehearing?

A No, you will not find it there.

CHAIRMAN TOMPKINS: Any other questions?

MR. KOHN: No, not at this time.

CHAIRMAN TOMPKINS: Now it is after one o'clock. We are finished with this witness. We have another witness we want to call, but I think everybody would like to have a little lunch, so let us recess until 1:45, at which time we will return. That will give us about forty minutes to have a sandwich and a cup of coffee.

(At 1:05 p. m. the hearing was recessed until 1:45 p. m.)

* * * * *

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing on the above cause before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and that this copy is a correct transcript of the same.

PATRICIA L. SAYER.

Reported by:
Miss Patricia L. Sayer
1625 Green Street
Harrisburg, Pennsylvania

AFTERNOON SESSION

February 27, 1957

COMMITTEE MEMBERS present were:

Chairman Tompkins
Representative Bell
Representative Lopresti
Senator Yosko

CHAIRMAN TOMPKINS: The hearing will reconvene.

Let the record show that at the beginning of the hearing this afternoon Senator Fleming and Scott are not present and that four members of the Committee sat.

You may proceed, Mr. Kohn.

Mr. KOHN: I will ask Mr. Hughes to please take the stand.

J. HAROLD HUGHES, a witness having been duly sworn, was examined and testified as follows on

DIRECT EXAMINATION

BY MR. KOHN:

Q Your name is J. Harold Hughes?

A Yes sir.

Q What position do you have in Delaware County?

A First Assistant District Attorney.

Q How long have you been First Assistant District Attorney in Delaware County?

A On my sixth year.

Q Now will you state whether or not you tried Commonwealth against McSorley et al?

A I did.

Q I ask you whether or not you appeared at the special hearing set for January 18 and 19, 1956 on the Board of Pardons?

A Yes sir, I did.

Q You were there on behalf of the District Attorney's Office of Delaware County?

A Yes sir.

Q What was your position in regard to these cases before the Pardons Board?

A We opposed it as strongly as we were able.

Q Do you know whether the judge who tried the case also opposed the commutation?

A He strongly opposed it.

Q What was the judge's name?

A Judge Toal.

Q When these cases went to hearing before the Pardon Board what time of the day was it?

A It was the last case in the day and my recollection is it started about a quarter of five.

BY REPRESENTATIVE BELL:

Q This is the second hearing?

A Yes, January 18th hearing, I understand.

BY MR. KOHN:

Q How long were these cases heard by the Board?

A My recollection is that they finished about 6:20. My reason for that is that I know I met Mrs. Hughes at the Penn-Harris at twenty minutes to seven. That is my recollection.

Q Did you look at the notes of testimony that were alleged to have been taken at the hearing by yourself and Mr. Fawcett, counsel for the applicant?

A I did.

Q And is this a complete record of what was said by counsel on both sides during that hour and a half?

A It is not.

Q Do you recall one particular question that was asked by a member of the Pardons Board that is not recorded in here?

A Well, there were many, but I do recall particularly the one by Mr. Finnegan where he said how can we substitute our judgment for the local Court and Superior and Supreme Court.

Q Does that appear anywhere in the record of this testimony?

A Not on hastily reading it. I was only reading it to find something about the reason for giving it. I don't find it there.

Q Well, will you look at it and see if you can find any questions by Mr. Finnegan recorded in that?

A Oh, I am sure there isn't. There are only statements by, it says, Mr. Fawcett. But it isn't Mr. Fawcett even, it's Mr. Trescher and myself.

Q Were there many questions asked by all members of the Pardons Board of both yourself and Mr. Trescher?

A I would think they all did.

Q Is that a complete transcription of the arguments made by both sides?

A No sir, I am sure it is not.

Q Did you ask Mr. Hean or any members of the Pardons Board why this was listed for the last case on the list?

A I only wrote the letter which I gave you, asking to put it along with the Delaware County cases. That's all I asked by letter.

Q When these cases were heard, were there any newsmen or anybody in the court room outside yourself and members of the Pardons Board, their staff and you and Mr. Trescher?

A Behind the bar there were only two or three men sitting there in one group. I don't know who they were.

Q These cases were specially listed and specially numbered, were they not?

A Yes, I had asked them to be numbered 46 or 47½, along with Delaware County, but they were put at the end of Montgomery County, I think it was.

Q Is there any allegation or any argument by Mr. Trescher at the time the argument took place on January 18th? Was there any feeling in the community against these defendants at the time they were tried?

A I don't recall any. It wasn't one of the reasons, and if it was said it was only in passing.

Q Was there any time you heard that specifically argued as one of the reasons for commutation?

A No sir.

Q Was there any public reaction against the Board of Pardons for commuting the sentence of these defendants?

A Yes, there certainly was. There were quite some newspaper articles about it, and I think there were quotations from the court in the papers, and from the short circle where I am, it was talked about as being wrong.

MR. McBRIDE: Gentlemen, I raise a point of order. I don't think that this committee is inquiring into the correctness or the incorrectness of the decision or what the community feeling was about it. The committee, as I understand it, is inquiring into the question as to whether there was any improper influence. We have spent a lot of time talking about the merits and demerits of the application. And surely Mr. Hughes' opinion about whether he would have agreed with the Board's order or whether the community did, or whether the judge did, has nothing to do with the question of corruption.

I concede fully corruption is important; political influence is important, but the mere question of whether the Board acted rightly or wrongly is no more in issue than if we were inquiring into whether a court acted rightly or wrongly with respect to the given case.

REPRESENTATIVE LOPRESTI: I agree with the position taken by the Attorney General.

REPRESENTATIVE BELL: I don't think we should restrict these witnesses.

CHAIRMAN TOMPKINS: I think a part of our inquiry should be the public reaction to the decisions of the Pardons Board.

SENATOR YOSKO: I don't agree with that because the Resolution does not call for investigation based on the reactions of the public or anybody else.

I want to ask the assistant district attorney a question at this time.

BY SENATOR YOSKO:

Q Are you prepared to submit to this committee any evidence of improper influence on the Pardons Board which would influence the action it took?

A I have no knowledge of what caused them to make the findings they did. And that is either from the argument before the body and anything else I may know. I don't know.

REPRESENTATIVE LOPRESTI: Mr. Chairman, I think that the Pardons Board is a constitutional body given the right to pass on certain questions and I don't think we have any right to enter into the question of judgment and wheher or not they agree with the courts. Certainly if the Pardons Board was expected to agree with the Court and the district attorney there would be no need for it because it could stop right there.

I think we are going beyond the authority and the power of this committee to inquire into the justification or the reasoning for the actions of the Board.

SENATOR YOSKO: Mr. Chairman, along that line I could, if I wanted to, go into a long examination on the part of the office of the District Attorney of Delaware County on the reasons why they come up here and recommend a commutation. I have a record of the cases here from February 1955 to February 1956 wherein 22 cases they opposed either a pardon or commutation and in 31 cases they recommended them. They involve robbery, sodomy, voluntary manslaughter, rape, burglary and arson, cases that are more serious than this one. They are felonies.

Now this case, if I am not mistaken, is a misdemeanor.

REPRESENTATIVE BELL: Mr. Chairmn, I think we should get as many facts in the record as we can handle. We are a fact finding body and if Senator Yosko wants to bring in witnesses as to improper influence in any other cases, he is perfectly free to do so. I don't think we should stop our counsel from examining this witness.

SENATOR YOSKO: Mr. Chairman, I didn't say that. I am saying that we are going beyond the mandates of the resolution under which we are operating. We are called upon to determine whether there is improper influnce exerted on the Pardons Board in arriving at their decisions; and unless the district attorney is prepared to testify to that effect, I don't think it is proper for us to go into the reasons for their decisions. That speaks for itself. It is right in the order of the Pardons Board. It is a public record.

CHAIRMAN TOMPKINS: The resolution calls for our investigating all actions of the Pardons Board since January 4, 1950.

SENATOR YOSKO: You have to read further than that.

REPRESENTATIVE LOPRESTI: What we are called upon to do here now is not to decide actions of the Board of Pardons, but whether or not a community or a particular man agrees with the Pardons Board. And I don't think that is our function.

CHAIRMAN TOMPKINS: I think that that is a part of this investigation. It becomes our duty to determine whether or not the actions of this Pardons Board are in any way causing any trouble in connection with law enforcement in this state.

REPRESENTATIVE BELL: I concur.

CHAIRMAN TOMPKINS: And in doing so, questions relating to specific cases and the public reaction thereto I think are germane to this inquiry.

MR. McBRIDE: We want to note, Mr. Chairman, our protests against this committee going into the discretion of the Board of Pardons. Corruption yes; improper influences, yes; but this committee, I respectfully submit, has no more warrant to question the discretion of the Board of Pardons than it can question the discretion of the Supreme Court of Pennsylvania.

CHAIRMAN TOMPKINS: I don't think the question which was asked has anything to do with the discretion of the Board.

MR. McBRIDE: It is even worse.

CHAIRMAN TOMPKINS: I think the question goes as to what reaction the public is giving with respect to the actions of the Board.

MR. McBRIDE: If the action of the Board was right, what does it matter how the public reacted? The guarantee of freedom insists that the law be obeyed, particularly where there is public reaction. And you would be the first to stand up for that principle.

REPRESENTATIVE BELL: Mr. McBride, do you question the right of the Legislature of Pennsylvania to call any executive or any other constitutional board before one of its committees to inquire as to whether what has been done is right in so far as we are the represntatives of the people?

MR. McBRIDE: I question your right, or the Legisla-

ture's right to call any executive constitutional official before you for the purpose of deciding whether you think he was right or wrong in the exercise of his discretion.

REPRESENTATIVE BELL: Do you challenge the right of the Board to call before us any executive official for the purpose of our initiating a constitutional amendment, sir?

MR. McBRIDE: I do not put it that broadly. I say that you have a perfect right to call before you certain executive officials. There are certain others you cannot. But in calling them before you it will just make a shambles of the principle of separation of governmental powers, if you just sit up here and start to review what the Board of Pardons did and then come to the conclusion that you don't agree with it. You couldn't do that with a court, could you? You could no more do it with the Board of Pardons.

REPRESENTATIVE BELL: Well, sir, I disagree. I say that the members of the Legislature are the representatives of the people; and if the executive department is wrong, we have the duty—provided we have the authority from our parent branch—to inquire and to report back to our parent branch.

MR. McBRIDE: The representatives of the people in each particular instance are set up by the Constitution. In Pardons Board matters the Pardons Board is the representative of the people, too.

The Legislature has its branch; the Judiciary has its branch, and so has the Executive. Constitutional government requires that they must be kept separate and apart and within their own functions.

REPRESENTATIVE BELL: And sir, if a constitutional amendment is initiated, it can very properly be initiated from the Legislature of Pennsylvania, am I correct?

SENATOR YOSKO: But you don't have to conduct public hearings or set up a committee or make investigations to initiate a constitutional amendment.

You are a member of the Legislature and so am I, and I could introduce any bill that I see fit to introduce to amend the Constitution or to amend any other law that is on the books of the Commonwealth of Pennsylvania. If there is no law on the subject, I can introduce bills to put such a law on the books. And it doesn't require this type of proceedings to give me that right.

CHAIRMAN TOMPKINS: I fully agree with Mr. McBride in connection with the separation of powers in our government. I must disagree with him, however, in connection with the fact that we are not empowered by this committee to inquire into reactions from decisions. That is not questioning reasons for the decision or their discretion, but we do have the right to look into reactions from the actions of the committee to determine whether or not it is affecting law enforcement and whether or not it might go to the abuse of the powers of the Pardons Board.

REPRESENTATIVE LOPRESTI: The Chairman is not suggesting that we submit to mob rule, is he?

CHAIRMAN TOMPKINS: I don't see where that has any suggestion of that at all.

REPRESENTATIVE LOPRESTI: Well that's what it amounts to when you ask for public reaction. Sometimes mob rule can be wrong.

SENATOR YOSKO: I am sure, Mr. Chairman, if we are going to do that, we are going to be here a long, long time because I am certain that you can get witnesses up here who will testify one way and somebody else can get witnesses to testify another way. If we are going to sit here and listen to a lot of witnesses, we are going to be here a little time.

I contend we are here to determine whether or not the decisions of the Board of Pardons are based upon improper influence, but we are not here to determine whether their judgment was right or wrong or fair or unfair.

There is nothing we can do here to change the decision of the Board of Pardons.

What counsel is now doing is re-hashing the case, a case which is now a matter of record.

CHAIRMAN TOMPKINS: We cannot inquire into the subject of our resolution without going into some specified cases which have appeared before the Board of Pardons.

SENATOR YOSKO: I did ask a witness whether or not he had any evidence to present to the committee on improper influence on the Board of Pardons in arriving at its decision and he said no. So the only thing we can do is re-hash the case.

CHAIRMAN TOMPKINS: Yes, Mr. Kohn, what do you have to say?

MR. KOHN: Mr. Chairman, this government is made up of the legislative, judicial and executive. We have this morning attempted to show this board and the public that there were certain deviations in the actions of the Board of Pardons that we feel should be brought to the attention of the public. The necessity of the judicial also is concerned with the protection of the people in whose communities it is their duty to enforce the law.

These reactions to the Board of Pardons have not occurred only in this county but in many other counties. And I think that the reaction of the people is a thing that caused this investigation, and I think the matter should be put on the record that it was a reaction of the people all over this state that caused this investigation.

I think we ought to be allowed to put on record the facts that caused this investigation. We are not judging the Pardons Board. Their job has been done. People will judge them; they may be right; they may be wrong. That is not the matter that I intend to go into, but I do feel that where there are deviations such as has been shown here this morning, we ought to be allowed to show the result on law enforcement in that community and on those people and on those judges because that certainly has something to do with the operations of the Pardons Board taking away from the judicial and functions which the people gave to the judicial.

And this is a Board that has been set up and is not an executive board but it is a board that has been set up to consider the actions of those courts and the actions and rights of the defendants. They are tied up so closely that I could hardly see that you can divide them to say that you are not interested in them.

REPRESENTATIVE LOPRESTI: Let me say for the information of the committee that I do not believe that we should ever go to the point in American justice when either the judges, the Board of Pardons or any person having to do with the enforcement of law should be afraid of public reaction in doing his duty.

MR. KOHN: I agree with you.

REPRESENTATIVE LOPRESTI: It is based on the record itself.

MR. KOHN: That is what I am basing it on.

REPRESENTATIVE LOPRESTI: And the public reaction to that judgment should not enter into it at any time if we are going to have a constitutional government.

MR. KOHN: Except we are basing this investigation on the reaction of the public as mandated to the people to conduct this investigation.

REPRESENTATIVE LOPRESTI: I don't so understand it.

SENATOR YOSKO: And I don't believe either that there are sufficient serious irregularities or deviations that you brought out or anybody else brought out that would affect the merits of the case or would merit re-hashing the case before this committee.

MR. McBRIDE: May it please the Board, the Chairman and Mr. Kohn indicated that there may be some violations noted here. At most, even giving what we have heard here today its full import, there would be some technical violation of a rule. The Senate and the House has its rules and they can suspend them. The Board of Pardons which makes the written rules can suspend them. They could change them. They could do what they wanted with them.

The question is not really whether what they did was right or wrong but whether what they did was motivated by improper influence or corruption.

Now we have listened all morning and we are listening now—and I suppose we will be treated to Mr. Hughes' views that he doesn't agree with what the Board of Pardons did. That isn't the issue in this case. I really represent to you that the committee would be not only exceeding the powers granted to it by the Legislature but by the Constitution itself. And you would be making an inroad on constitutional separation if you did.

CHAIRMAN TOMPKINS: Now, in the light of what Mr. McBride has said, I merely want to make this observation, that personally I am thoroughly shocked that the Pardons Board can change its rules at will because that doesn't give anybody an opportunity to know what they might do next without any notification or give no one an opportunity to be hear if they so see fit to change the rules to gag and block.

I don't agree with the principle that they should make rules at will and on the spot.

As to the other matters, unfortunately we are an evenly divided committee here this afternoon, and therefore we don't have anybody to break our deadlock on this issue. I have expressed my personal views on it. Mr. Bell has expressed his personal views on it. We believe that we have the right to continue with this inquiry along the line in which it has been initiated, and to inquire into these matters of the reaction to the decision of the Board of Pardons.

In the light of that fact, and in order to get some majority ruling of this committee and not make it appear that we are going to be dictorial here in connection with the conduct of this committee, I will therefore suspend further questioning along this line until 10:00 o'clock tomorrow morning at which time we will have a sufficient number of board members here that we can get a majority ruling of the Committee on this issue.

REPRESENTATIVE LOPRESTI: Mr. Chairman, I don't think the position is quite clear. I object to the board doing it, or the committee doing it. However, I wouldn,t vote against your not doing it. I have stated my reasons why I think it is improper, but I say if the two members of the committee want to inquire into it, it is all right with me. I am just merely raising a protest that it is not proper procedure. Now, if you want to do it, I will go along with you, sure.

SENATOR YOSKO: I take the same position. If the Assistant District Attorney has any evidence of improper influence arriving at a decision in this case, I am perfectly willing to let them testify. If he doesn't, I am not interested in hearing a re-hashing of the case and the arguments before the Pardons Board. That is all a matter of record.

I will go along with Mr. Lopresti. If you want to pile up a bill for stenographic services or take testimony that is irrelevant to the issue and is not within the terms of the resolution which created the committee, it is all right with me. You can go ahead.

REPRESENTATIVE BELL: Mr. Chairman, I personally take offense from Senator Yosko's remarks. I think that the purpose of this committee is to inquire as to the facts so that we can make a report to our respective Houses for the purpose of prospective legislation. And if there is any threat to law enforcement in this Commonwealth, I say the cost of the record is worth finding it out.

REPRESENTATIVE LOPRESTI: There is a difference between opinions and facts.

SENATOR YOSKO: We had opinions this morning, Mr. Lopresti. There was a question asked by Mr. McBride of Mr. Hean as follows: "Was this due notice," talking about some advertising. And if there was ever an opinion, that was it.

MR. McBRIDE: That's the language of the Constitution.

REPRESENTATIVE LOPRESTI: Now, you are asking him to pass an opinion as to whether or not the people of this county think this court is right or wrong. That's the difference.

REPRESENTATIVE BELL: I think the members of this committee, including Senator Yosko—

CHAIRMAN TOMPKINS: Gentlemen, we will resolve this issue in full committee executive session. I don't propose to continue with any hearings over which we do not have a sufficient number here to give us a majority to proceed with.

REPRESENTATIVE BELL: May I conclude my statement: it was not heated, I will guarantee it.

I was going to say that the people on this committee bear the confidence of the respective Houses for their good judgment. If they cannot sift between fact and opinion I am mistaken. I have the opinion of Senator Yosko and Representative Lopresti and the other members of this committee.

REPRESENTATIVE LOPRESTI.: Well, we have a basic discussion here as to what the function of the committee is, and I contend that it is not the function of this committee to pass upon the actions of the Board of Pardons, nor is it the function of this committee to determine whether or not a particular action of the Board is popular in the community or not. I think that it is the function of the committee to discover whether or not the Board has acted improperly, has submitted to influ-

ence or has done anything which was considered outside the scope of its judicial function or quasi-judicial function.

SENATOR YOSKO: Mr. Bell, I am assuming that the Board of Pardons was set up for the purpose of adjusting any inequities that might have resulted from a court trial which subsequently resulted in a sentence. And if that is not the reason for the Pardons Board, I wish somebody would enlighten me on the purpose for which it functions.

Now, if the Pardons Board felt that in this case, even though the Defendants were found guilty, that the sentence was improper or exorbitant and they wanted to reduce it from two years to six months, I think that's within their jurisdiction. It is within their right. They exercise that right.

Sure, some people will like it and some won't like it, but that's their function. And unless somebody can produce evidence to us, I repeat, that their decision was influenced by improper influence, I don't see why we should re-hash the case. It is not going to do us any good. It is all a matter of record. All we have to do is review the record. The records of the Pardons Board are available to us. We can incorporate anything in our report that we want to—at least that's my understanding.

CHAIRMAN TOMPKINS: Well, if there is anything in the action of the Pardons Board which is tending to break down law enforcement in our Commonwealth, I certainly think we have the right to inquire into that influence.

REPRESENTATIVE LOPRESTI: Well, as I said, Mr. Chairman, you are perfectly at liberty to continue as far as I am concerned.

CHAIRMAN TOMPKINS: I will not continue until we have a majority rule of this committee on it. I don't propose to put ourselves in the position of taking a dicttorial attitude in this matter or try to oppress any of the witnesses.

For that reason, we will defer further questioning along this line until we have a majority of the committee here to get a majority action. It is unfortunate we are equally divided here this afternoon and we cannot break that tie.

SENATOR YOSKO: Do you have any other questions we can take?

MR. KOHN: My questioning is along these lines, and I think the people of Pennsylvania speak. I don't question that the actions of the Pardons Board might have been fully justified in their own minds, but I do feel that inas much as the people of Pennsylvania want to find out how the Pardons Board has reacted and the reasons they have given, as we brought them out here, and whether or not those reasons are justified and whether or not law enfocement is going to break down. This was an after result as a result of the action of the Board not only in this case but other cases which we intend to bring out. And I think that the only way that the Pardons Board is going to get any rules to follow is whereby they will first ascertain the attitude of the community on which they are releasing these particular defendants is by finding out what the community thinks and why they think that way. And that's the line and gist of this questioning, and it is going to be the line and gist of questioning of Judge Bretherick and Judge Toal tomorrow morning, who have publicly expressed themselves and who have said it was political and it was wrong.

That is your situation. And you might just as well get a clear issue because when I am told to go ahead or to stop, I will know just what to do.

SENATOR YOSKO: Do I understand that if somebody wants to come up here and testify on the other side that the sentence was exorbitant—

Mr. KOHN: I am not talking about the sentence. I am not interested in the sentence. I am interested in the reaction in the community.

SENATOR YOSKO: You are talking about breaking down law enforcement. We can argue about that all day.

MR. KOHN: If you can get someone up here to testify that that was good low enforcement, I would like to hear it.

SENATOR YOSKO: Let me ask you one question. If people come up here and testify that they see no wrong in the decision that was arrived at by the Pardons Board, do I understand that you have no objection to them testifying?

Mr. KOHN: I am talking about the general opinion of the community.

MR. McBRIDE: Listen, the general opinion of the community was whipped up by Mr. Miller and the Philadelphia Inquirier. It was whipped up directly and is being whipped up now during this committee hearing.

REPRESENTATIVE LOPRESTI: We can't submit to mob rule. That's out. The constitutional government took too long to establish—

CHAIRMAN TOMPKINS: We are not submitting to mob rule, but I certainly think we have a right to inquire into these actions.

MR. KOHN: I am not only basing it on that. I don't want to talk too much because after all I am an employee of Mr. Yosko and Mr. Lopresti and I want to do what is right.

SENATOR YOSKO: I find no fault with you. It is your line of questioning, that is all.

MR. KOHN: I know you are not. I am just saying we can show a general breakdown in the Community of law enforcement as a result of the possiblity erroneous decision of this Board and the resentment that it releases on the community with respect to not only these particular individuals who were defendants but other individuals who would do these things along these same lines.

Now if that is relevant in this inqury, then you will have to rule on it.

REPRESENTATIVE LOPRESTI: If we follow through on your reasoning, we might as well eliminate the Pardons Board because any time they do something that the community doesn't think is right, they are not acting in the proper constitutional—

MR. KOHN: Mr. Lopresti, this isn't one individual instance. I will prove to you many individual instances along this same line.

MR. McBRIDE: Is your statement that you want people to come up here to say they are in favor of law enforcement? The contention was made that these five men were innocent. It was made by the former District Attorney of Delaware County who is now a Federal Judge and it was made by Mr. Trescher before this Board of Pardons. Both of them are available to tell you that

they think it was not only in the interests of law enforcement but of justice.

MR. KOHN: The Superior Court didn't say that.

MR. McBRIDE: The Superior Court did not have this question.

CHAIRMAN TOMPKINS: Just a moment. I am not going to have counsel testifying.

MR. McBRIDE: We have to answer questions, Mr. Chairman.

CHAIRMAN TOMPKINS: Bring your witnesses in.

SENATOR YOSKO: May I ask just one question of the witness?

BY SENATOR YOSKO:

Q Have there been any riots that resulted in damaged property in Delaware County since these defendants had their sentences commuted?

A Yes sir.

Q What were they?

A There was what is known as the Westinghouse riots.

CHAIRMAN TOMPKINS: I am not going to allow any questioning by anybody on this subject until we get a majority opinion of this committee. I am going to rule your question out of order because I want to have the majority of this committee rule on this issue.

We will adjourn the hearing until 10:00 o'clock tomorrow morning.

We would like to have the Attorney General come to an executive committee meeting which we will hold right now.

(At 2:23 p. m.,the hearing was adjourned until 10:00 a. m., Thursday, February 28, 1957.

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same.

A. J. PLESCE.

Reported by:

Anthony J. Plesce
Box 582
Harrisburg, Penna.

Before The

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTERS No. 8

at HARRISBURG, PENNSYLVANIA

Date FEBRUARY 28, 1957

Volume II

PATRICIA L. SAYER
1625 Green Street
Harrisburg, Penna.

CEdar 2-2832

INDEX FOR MORNING SESSION*

Committee's Witnesses	Direct	Cross	Redirect	Recross
Arthur P. Bretherick	165			

EXHIBITS

Commitees	Idenitfied and Received
Exhibit No. 4— Statement of Record two the Grand Jury of Delaware County by Arthur P. Bretherick dated March 5, 1956	173
Exhibit No. 5— Statement of Record to the Grand Jury of Delaware County by Arthur P. Bretherick dated March 8, 1956	173

BEFORE

JOINT LEGISLATIVE COMMITTEE

TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS,

PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 11:15 a.m., Thursday, February 28, 1957

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania—For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania. For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania. For—Committee (Assistant Counsel)

CHAIRMAN TOMPKINS: The meeting will come to order.

On the issue which was raised yesterday, the Committee have unanimously decided:

1. That we will permit witnesses to testify as to their

---

* For Index to Afternoon Session see Page 238.

own personal opinion regarding the actions of the Pardons Board and the reaction thereto.

2. We will permit any recommendations they have to improve the system of the pardons in this Commonwealth.

3. That we will not permit any testimony regarding public opinion generally, unless that public opinion is supported by documentary evidence; and that likewise, witnesses who will be in contradiction to personal opinions which are expressed here will be permitted.

Mr. Kohn—

ATTORNEY GENERAL McBRIDE: Are you withdrawing Mr. Hughes temporarily?

MR. KOHN: I am, sir.

ATTORNEY GENERAL McBRIDE: We think it is entirely all right.

ARTHUR P. BRETHERICK, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q Your name is Arthur P. Bretherick?

A My name is Arthur P. Bretherick.

Q What is your position in the Commonwealth of Pennsylvania?

A I am a Judge in the Court of Common Pleas of Delaware County, Pennsylvania.

Q How long have you been a judge in the Court of Common Pleas?

A I have been a judge in the Court of Common Pleas in Pennsylvania for nearly eight years.

Q Previous to that time were you a practicing attorney?

A I have been connected with law since I was fifteen years of age. I started as an office boy at the age of fifteen. I have been everything you can be in an office. I was associated with the law firm of Francis Brown, Ira Jewel Williams, Alexander Simpson for thirty-seven years. I have been a member of the Legislature of the State of Pennsylvania; Register of Wills of Delaware County, and a lot of other things.

Q Mr. Bretherick, on or about March 8, 1956, did you receive a Grand Jury report from the Grand Jury of Delaware County?

A I certainly did.

Q And did not the Grand Jury report concerned mention regard to the Pardons Board?

A There was a mention of the Pardons Board in that particular report, but I do not know what the exact words were.

Q Subsequently, about June 7 of 1956 was there again a report of your Grand Jury of Delaware County?

A There was.

Q And was there a mention of the Pardons Board in there?

A I do not recall. There was, but I do not recall what the words were.

Q And what was the reason for the Grand Jury having something to say about the Pardons Board?

A The reason for the Grand Jury having something to say about the Pardons Board, in the first instance, occurred in March of 1955. I had the Grand Jury during that week and before I charged the Grand Jury I had been furnished with one of our District Attorney's, Assistant District Attorney's—with a report that the Pardons Board had just or the Governor had just commuted the sentence of five hoodlums that had come into our county and destroyed public property not private property; a public building, not a private building and I was incensed and I told the Jury what had happened.

BY REPRESENTATIVE BELL:

Q Judge Bretherick, was that 1955 or 1956?

A That was in 1956.

BY MR. KOHN:

Q Did you make a statement of record to the Grand Jury?

A I made a statement of record to the Grand Jury.

Q May I ask you whether or not this is a certified copy from the records of the Clerk of the Court of your county?

A That is a certified copy of the record from the Clerk of the Court of our County.

Q Did you then address the jury and make these remarks?

A I most certainly did.

MR. KUHN: May we ask permission to read these remarks of Judge Bretherick to enter on the record, and I would like to file this for consideration of the Board?

CHAIRMAN TOMPKINS: You may mark it as an exhibit.

MR. KOHN: This is marked Miscellaneous Quarter Sessions Docket at A22, page 302 certified from the record of the County Clerks Office of Delaware County on the twenty-first day of February, 1957.

You dont mind if I stand. I can read better that way.

"Media, Pennsylvania, March 6, 1956. Remarks of Honorable Arthur P. Bretherick, Judge at the time the Delaware County Grand Jury for the March Sessions of 1956 commenced its duties.

"JUDGE BRETHERICK: Before we swear this Grand Jury, there is a comment that I want to make about a case that was tried in our courts in 1955, involving one Joseph McSorley, Joseph D'Antonio, Joseph Dendofer, Pasquale DiMarco and Charles Rainer. They were all convicted in our courts of riot, conspiracy to assault, riot and destroying public property; because they didn't like the way the work was being done and by whom it was being done in the Annex which was built in the back of the Court House, which is public property, these men entered that property and beat up some of the employees there and destroyed property. They were convicted in this court after a fair trial, they took their case all the way up to the Supreme Court of Pennsylvania. The convictions were sustained. And we now have a Pardons Board which is so tainted and tinctured with politics that after those men have served approximately four months of a two-year sentence their sentence has been commuted by the Pardons Board at Harrisburg, Pennsylvania.

"Ladies and gentlemen, that case involved something that is sacred to the people of Pennsylvania. That is the preservation of law and order. These men were just a pack of hoodlums who came out here from Philadelphia

to enforce whatever rights they thought they had with regard to men either belonging or not belonging to a union, and they invaded public property. And after serving approximately four months of a 24 month sentence, the public authorities have seen fit to commute their sentence; and I want to say to you that is a disgrace to the State of Pennsylvania.

"You are going to perform your duties this week as Grand Jurors. And if you perform your duties as other Grand Jurors have performed those duties, you are going to do it honestly and sincerely, without regard to politics or personalities or anything else. And I am sure you will fulfill that duty.

"In our courts we endeavor to see that every man is given a fair trial, regardless of that person's race, creed, color, standing in life or anything else. But there is not much use of our courts endeavoring to see that men are tried and convicted of crimes if a State Pardons Board is going to turn them loose for political purposes; and I want to say to you that is what was done in this case. You can't do justice on that basis. You can't have respect for the courts or for law and order if that sort of thing takes place, and I want to condemn it as strongly as I know how. If ever there was a travesty, it was the turning loose of these five men who came into this county, a bunch of hoodlums, and took the law into their own hands and destroyed county property. To turn them loose after approximately four months is a disgrace to the State of Pennsylvania; and I hope that your endeavors this week will not be treated in the same way by a Pennsylvania State Board of Pardons as it is now constituted.

"Members of the jury, you may now retire to the Grand Jury Room, select your secretary, and then the District Attorney will be ready to present bills of indictment to you for consideration.

"Before you go, I want to add further to what I said to you with regard to these hoodlums that came out and were convicted in our courts. Some time ago we convicted a Philadelphia racketeer, gambler, one of the leading lights in illegal activities in Philadelpha, a man arrested many, many tmes. Finally we convicted him in Delaware County. This was the first time he had been tried in Delaware County. He was sentenced, he took his case all the way up to the Supreme Court. And after serving eight months of a two-year sentence, that man too had his sentence commuted by the State Board of Pardons. You realize how difficult it is for judges in a situation like that; when an application is filed for a pardon, the State Board of Pardons asks the judge who heard the case to make recommendations. Well, in these cases recommendations were made that these men be retained in jail, that they be incarcerated for the full period of the term of their sentence.

"There is no use at all of Pennsylvania's Judges making recommendations to the Board of Pardons if they are going to turn loose on the public one of the leading racketeers in the Eastern part of the United States of America. When he came into our county, he was convicted. He wasn't convicted in Philadelphia. And then they turn him loose. He is just another Costello, he is another Joe Adonis. And after serving eight months of his sentence, against the protest of Judge Toal who heard the case they turn him loose.

"What a shambles the State Board of Pardons is making of justice in Pennsylvania. Our courts might just as well close their doors if we are going to go to the trouble to convict these men, and they take their appeals all the way up to the Supreme Court of Pennsylvania and those convictions are sustained, and then they turn them loose to prey on the public again. It is a travesty of the worst kind. I hope, as I said before, that we will have none of that in Delaware County."

I offer that into the evidence.

BY MR. KOHN:

Q You followed me, Judge. Is that correct?

A That was correct, except you left the word "again" out at the end.

Q I ask you again then, Judge Bretherick, did you subsequently then again on March 8 address the Grand Jury and make remarks on the record to that Grand Jury?

A Yes, sir, I did.

Q I show you Exhibit 5 and ask you whether that is a certified copy of those remarks to the Grand Jury?

A That is a certified copy of the remarks which I made to the Grand Jury after they had completed their duties.

CHAIRMAN TOMPKINS: Now, just a minute. Let's get the exhibits marked. Will you mark those?

(Reporter complied.)

Statement of record to the Grand Jury of Delaware County by Judge Arthur P. Bretherick, under date of March 5, 1956, produced, marked for identification and received in evidence as Committee Exhibit No. 4. NPK 2-28-57

Statement of record to the Grand Jury of Delaware County by Judge Arthur P. Bretherick, under date of March 8, 1956, produced, marked for identification and received in evidence as Committee Exhibit No. 5. NPK 2-28-57

MR. KOHN: And this is Miscellaneous Quarter Sessions Docket of A22, page 302. I would like to read this to the jury, the Committee.

This is dated Media, Pennsylvania, March 8, 1956. Certified from the record this twenty-first day of February, 1957, by William H. Milliken, Jr., Clerk of Court, Delaware County, which reads as follows:

"JUDGE BRETHERICK: . . .

"I want to share with you your comments with regard to the State Pardons Board. I talked to you about one Michael J. Caserta, who was convicted in our courts and who was pardoned by the State Pardons Board.

"First of all I want to read a letter—and I have received several letters and several telephone calls of commendation—and I want to read a letter that I received from a man named Clarence G. Myers, who is a member of one of the biggest law firms in Philadelphia, in which he says:

" 'Dear Judge Bretherick:

" 'I am so glad you have taken judicial notice of the frightful abuses of the Pardons Board with respect to their discretionary powers. The non-stop parade of habitual felons through our jails and out to prey on the public again is tragic. If this is modern penology,

it is high time we returned to old-fashioned common sense.'" End of letter.

"And I want to say with that view I am a hundred per cent in accord.

"But I want to read to you, if you will just give me a minute or two, the record of Michael Caserta, who is a Philadelphia racketeer, who has plied his wares in Delaware County through local numbers writers and bookmakers for a long period of time. We have picked up his bookmakers and his numbers writers on many, many occasions, but we never could get Michael Caserta, for the simple reason that the individuals that we arrested and jailed would not make any statements as to who they were doing business with. But in this Michael Caserta case, one of the men was picked up, and Michael Caserta in this instance failed to keep his promise that the wife and the family were looked after while he was in jail, and because of that the individual talked. And that is the only way that we could ever have gotten Michael J. Caserta. If it hadn't been for that, he would have been plying his wares in Delaware County from his nest in Philadelphia for probably ten years and there is no way by which we could have gotten hold of him.

"This is his record starting back in 1931. Michael Caserta, charge aggravated assault and battery to rob and robbery; adjudged not guilty and discharged.

"11/14/31, charge suspicion of larceny; discharged by Magistrate Campbell.

"12/7/33, charge of murder; discharged by Magistrate Hamberg.

"March 4, 1934, charge, entering to steal and attempted larceny. Pleaded guilty, five years, put on probation. Not a day in jail.

"7/25/1934, charge larceny of money and receiving stolen goods. Nolle prossed, discharged.

"5/11/35, charge suspicious character, three months House of Correction.

"Sometimes they have themselves picked up as suspicious characters and placed in institutions of that kind while investigations are being made of a more serious nature. I don't say that that was the case here, but they do that.

"5/23/35, charge passing counterfeit money, three years, suspended sentence, five years probation. Not a minute in jail.

"9/27/36, charge larceny of wallet, found not guilty, discharged.

"7/28/37, charge suspicious character, discharged.

"11/21/38, charge robbery by holdup at point of gun, violation of Witkin Firearm Act. Not guilty submitted by direction of court.

"6/11/41, charge setting up and maintaining unlawful lottery, discharged by the magistrate.

"9/16/41, charge setting up and maintaining unlawful lottery; adjudged guilty, pay the costs.

"8/4/44, charge setting up and maintaining unlawful lottery; discharged by the magistrate.

"6/13/45, charge reckless driving, resisting arrest, violation of section 1025 of the Motor Vehicle Code. Found not guilty, discharged.

"5/22/46, Philadelphia, charge setting up and maintaining unlawful lottery, pleaded guilty., fine $50.

"Those fellows make $50 every half a day. Paying a $50 fine just didn't mean anything to that individual.

"12/16/46, charge disorderly conduct, discharged.

"10/23/48, charge setting up and maintaining unlawful lottery; discharged by the magistrate.

"3/27/49, charge violation of State Liquor Control Act, breach of peace; adjudged guilty, $300 fine. No time in prison.

"11/9/50, charge setting up and maintaining and aiding and abetting an unlawful lottery. Demurrer to evidence sustained, discharged.

"Every one of these was in Philadelphia.

"236 November Sessions 1953, arrested in Delaware County by Corporal Urella, Pennsylvania State Police, charged with lottery. 3/23/54, found guilty of lottery, motion for new trial. 7/9/54, new trial refused, $500 and costs, six months to 12 months in jail from today. Appeal taken to Superior Court from the sentence of Judge Toal.

"237 November Sessions 1953, indicted for conspiracy. 3/23, found guilty of conspiracy, motion for new trial. Motion refused. 7/14/54, $500 and costs, 11 months to 23 months in Delaware County jail from expiration of sentence on 236 November Sessions 1953. Appeal taken to Superior Court, Judge Toal.

"Date of commitment to jail in Delaware County, 3/25/55.

"Paroled on 2/25/56.

"Between 1931 and 1950, with the long criminal record, this man served no time in jail except three months in the House of Correction. In Delaware County we got him for the first time. And as you see, he received 18 months to 35 months in Broadmeadows Prison Farm. That is the type of individual who was turned loose on the people of Philadelphia, again to ply his nefarious wares.

"Members of the jury, I am happy to have had you join with me in criticism of the State Pardons Board. I hope that what I have said and what you have said will make the State Pardons Board realize that the people of Pennsylvania are shocked at such treatment of these cases by the State Board of Pardons.

"Just realize how discouraging it is to police officials, to district attorneys and to courts, to hear these cases and have sentenced a man with a long criminal record such as that, and then have the Pardons Board turn them loose against the recommendations of the judge who heard every word of the evidence in that case, who knows about the long criminal record of the individual involved, and then have the Pardons Board absolutely ignore the recommendations of the judge.

"You can see how discouraging it is. You can see what it does to the enforcement of law. You can't have law enforced if this State Pardons Board is going to disregard the advice of the judge who hears the evidence. We might just as well stop replying to their letters asking for recommendations if they are going to treat us this way.

"I am not going to make any recommendations to the Pardons Board until they change their ways. When I believe that the Pardons Board as it is now constituted is honestly and sincerely doing its job as a pardon board, when I believe that the State Pardons Board is endeavoring to see that justice is done without permitting politics to determine in each case what the decision shall be, then I will write recommendations to the Pardons Board, either for or against the release of an individual who is

before that Board for consideration. I have written letters both ways.

"But if they are going to treat the judges of Pennsylvania in that manner, then we might just as well save the time of our court secretaries, we might just as well save paper, because they probably receive our letters and immediately throw them into the waste paper basket. Because they couldn't have done otherwise—they couldn't have done otherwise, when they ignored the letter which had been written to them by Judge Toal in this Caserta matter. Otherwise they would not have turned this man loose to prey on the public again. And I want to tell you that he is preying on the public again. We almost got him about two weeks ago in the Borough of Yeadon, and we missed him by about one hour. We almost got the gentleman again. Now that is the gentleman who was turned loose by the State Pardons Board.

" . . .

"RAYMOND R. START, Esquire : (Delaware County District Attorney) And this is the one county out of the entire State where its own representatives go before the Pardons Board and have been there in person. And still it brought no result.

"JUDGE BRETHERICK: That has been the procedure, and that too demonstrates rather clearly that this Caserta thing was just a cut and dried thing. Our District Attorney had a representative there to protest most strongly against the release of this racketeer, but he was released just the same."

BY MR. KOHN:

Q Judge Bretherick, you were familiar with McSorley case?

A I was familiar with the McSorley case in so far as it came before me in discussion with Judge Irvin who discussed the matter with the other judges in my presence. I did not have anything to do with the trial of the case or any part of it. That was Judge Irvin now a Judge of the Superior Court, as you know and Judge Toal.

Q And you reviewed that case in regard to the facts sir?

A Pardon?

Q Did you review the case thoroughly in regard to the facts that were presented to the court for consideration?

A We certainly did. We reviewed every phase of that case because of the nature of the crime that was committed, because it was against public authority. It affected public property. It was a crime committed in a public building. If they could have gone to that building, they could have come into our court house and destroyed even the bench on which the judge he himself sits if they could get away with that sort of business.

Q Was a protest made to the Pardons Board about a release of these five defendants?

A I do not know; I cannot tell you. I did not. Judge Irvin may have done so; I do not know.

BY REPRESENTATIVE BELL:

Q Judge Bretherick, how far is the prison in question from the courthouse?

A I would say 200 feet. That is two-thirds the length of a football field.

Q Is it attached to the courthouse?

A Not physically attached to the courthouse. It is across the street from the courthouse. It was a courthouse annex which was contiguous to our Juvenile Court. It was right next to the Juvenile Court. At that time we had juveniles in our court.

BY SENATOR YOSKO:

Q What are the facts that led up to the riot?

A Will you speak louder please?

Q What are the facts that led up to the riot?

A What do you mean, "what are the facts that led up to the riot"?

Q What happened before the riot started?

A What do you mean, "what happened before the riot started"?

Q We are not familiar with the facts here. There is a case here inciting to riot. I thing that was the charge against McSorley, from what I see here. What were the facts that led up to it?

A These five men came out to our county for the purpose of stopping that job that was being done because they objected, as I understand it, to the fact that these men were nonunion men.

Q You mean there was a demolition of a building?

A There was a demolition of the old jail to be for the purpose of erecting a new annex for our courthouse.

Q And while the demolition was in progress, what happened?

A Demolition had been completed, but the machinery had not been removed. There was certain equipment there; certain property there but, as I understand it, it had not been removed.

Judge Toal can tell you more adequately what the facts are than I, because he was in the case after Judge Irvin was elected to the Superior Court.

Q Is Judge Toal here?

A He certainly is.

BY MR. KOHN:

Q I have another question. Did you ever find out what the Pardons Board based their commutation on?

A I would like to know. I don't know of any adequate reason on which they could have based their reasons.

MR. KOHN: Their reasons are as follows:

"At the time of the trial the feeling of the citizens of Delaware County was such that the court and the jury were undoubtedly influenced by the attitude of the general public. As this applicant and his accomplices were the only persons arrested, they bore the burden of the resentment of the community despite their vigorous denial of any implication in the riot."

BY MR. KOHN:

Q Do you feel the Pardons Board action, based on those reasons given, was justifiable or unreasonable?

A That is the most utterly ridiculous, asinine statement that I ever heard. There is no justification for it. It is a fact that that condition did not exist anytime during the trial of those cases.

Q Is there anything in record that such a condition existed?

A Nothing in the record. That was a figment of somebody's imagination.

Q Judge Bretherick, can you give us any enlightenment on the feeling of the law enforcing agencies who might have talked to you with regard to the action of the Board of Pardons in this particular case?

A So far as the law enforcement agencies of Delaware County are concerned this was just another case. They were represented by a man who was a former district attorney of Delaware County and, I think, one of the most capable lawyers in the whole United States of America. He is now Judge of the District Court for the Eastern District of Pennsylvania, the United States District Court; a brilliant lawyer, a man in whom we have the greatest respect and have the greatest admiration. That man tried the case and he was permitted to try it fairly.

Q Maybe you did not get my question. Maybe I did not state it clear enough. Who is the attorney you are talking about?

A C. William Kraft, Jr.

Q He tried the case?

A He tried the case and tried it well.

Q What I am getting at is, after the Pardons Board granted this commutation did you get any—did you have any talk with any of the law enforcement officers or agencies in your county, particularly in regard to the effect, if any, this decision of the Pardons Board commutation had on them.

A None at all.

Q Didn't the Chiefs of Police express their opinion to you?

A The Chiefs of Police expressed an opinion to me with regard to my statement that I had made to the Grand Jury.

Q Did you get any statement with regard to your attitude from law enforcement persons or judges?

A I most certainly did. I got a letter from Thomas A Revello, President of Delaware County Chiefs of Police Association in which he said:

"Honorable Arthur P. Bretherick, Judge, Courthouse, Media, Delaware County, Pennsylvania.

"Dear Sir:

"At the regular monthly meeting of the Delaware County Chiefs of Police Association, held at the Murray Stuart Veterans Post, Glenolden, Delaware County, Pennsylvania, last evening March 5, 1956, the matter of the recent actions of the new Pennsylvania Board of Pardons and Parole, Harrisburg, Pennsylvania, came to the attention of the entire body of the Association in the course of its regular business.

"This Association has gone on record as fully backing the view point and actions of yourself and the courts of Delaware County, and the Office of the District Attorney of Delaware County, in its approach to the problems and the condemnation of the Pardon Board for its reckless manner of consideration and disposition of cases coming before it.

"This Association thoroughly appreciates your efforts and statements and commends your action in the dangerous trend of allowing convicted criminals to be released after serving a mite of their sentence. The District Attorney's Office and the Courts have continuously backed the efforts of our police departments in securing proper convictions and sentences and we are totally adverse to loose and inconsiderate release of criminals after a proper trial and sentence.

"With the thanks of this organization extended to you, I remain,

"Sincerely yours.

"Thomas A. Revello, President of Delaware County Chief of Police Association."

Q Do you have any objection to giving us that letter for our record?

A Be very happy to. I replied to that letter if you would like to hear that. It is not long.

I replied to that letter on March 24, 1956 in which I said:

"Mr. Thomas A. Revello, President of Delaware County Chiefs of Police Association, municipal Building, Essington, Delaware County, Pennsylvania.

"Dear Chief:

"Thank you very much for your letter of the 16th instant, which I greatly appreciate. If you had read yesterday's Chester Times you will note that I have stated that the members of the Pardon Board shed copious tears for the widows and children of murdered policemen and then proceed to turn loose upon the public the murderers of these men so that they can go out and commit the same crime all over again.

"Our Judges are proud of the cooperation they have received from the Police of Delaware County, and I have not hesitated to so state on many occasions.

"With kindest regards to you and the members of your organization, I am

"Yours sincerely,"

Q Beside the letters from the Chiefs of Police Association did you receive letters from attorneys and others engaged in law enforcement or law practice in connection with your position?

A I have another letter here.

Q What does that letter apply to?

A That has to do with the experience an attorney had before the Board of Pardons—I would like to have that letter back, if I may—both before the present and previous Pardon Board. And I think it is to my mind, a very important indication of what was being done. It was written by a young man that I have known, Charles F. G. Smith, a lawyer, veteran of World War II with a splendid record. He was formerly a neighbor of mine. After he came out of the service I tried to help him. That letter was written to me in which he congratulated me, the same as the Chiefs of Police did, on my efforts to expose the political decisions on the part of the Board of Pardons.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I submit that so far as that letter refers to comparison between the present Board and the past or contains any facts, I think we ought to have the writer of the letter appear personally to state it rather than by indirection this way.

BY SENATOR YOSKO:

Q Judge, that letter as you seem to agree with, deals with political consideration. Do you have any evidence that the Pardons Board acts on political consideration?

A I have evidence in my hand that if it came before

me for decision by me as a judge, I would not hesitate for a minute—

Q I asked you judge if you had any evidence that the Pardon Board, this one or any other one acted on political consideration?

A If you are asking me for facts, I did not attend any meetings of the Pardons Board, and I certainly would be testifying to something I do not know of my own knowledge.

Q I ask you, Judge—

A Just a minute please, this is not a inquiry in a court of law. This is an inquiry in which public opinion is involved and the public has a right to know what is going on, and if you are going to insist on strict compliance with the rules of evidence and so forth then you are not going to get very far.

Q I am not talking about rules of evidence. I am asking you to answer one question.

A I have answered it.

Q You did not answer it. Do you have any evidence that this Board or any other Board arrived at any decisions based on political influence?

A I shall have to say to you that I do not, but I want to say this to you, that I am not saying to you that only this Board was governed by political consideration. I think other Boards have been also governed by political consideration.

Q Do you have any evidence of that?

A No, certainly. I—

Q Well then if you do not have any evidence?

A That is my opinion.

Q An opinion which you could not substantiate with evidence?

A I happen to be a member of the public for some unknown reason, and I am expressing my opinion as an individual who happens to be a member of that public.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I submit we are not entitled to listen to gossip whether it comes from the judge, the public or anybody else. There should be something better than mere gossip.

THE WITNESS: Well, you will have it here if you will let me read it.

CHAIRMAN TOMPKINS: This witness has, from the record, stated that he was giving his opinion as a member of the public—you did not say the public generally—but he was merely expressing his own views in connection therewith, and we will permit that.

ATTORNEY GENERAL McBRIDE: If you are going to permit him to say that this was dominated by political influence without the scintilla of evidence, that is unfair.

CHAIRMAN TOMPKINS: We will let him speak for himself and take the letter for what it is worth.

ATTORNEY GENERAL McBRIDE: You got a letter here from some man. That is nothing but hearsay.

SENATOR YOSKO: We will take his statement for what it is worth.

THE WITNESS: Well, I think you are going to find it is worth something too, after I read it if you will let me.

BY SENATOR YOSKO:

Q That is what I want you to do. I have asked you if you have evidence of political influence on this Pardons Board or any other Pardons Board in so far as arriving at decisions. If you have it present it to us. That is what we are here for.

A I told you that it was my personal opinion, and that I have something in my hand on which I based that personal opinion.

Q That is what we want.

A All right, I shall give it to you, if you will let me read it. Is that what you want?

Q That is what I want.

SENATOR SCOTT: There has been an objection raised, Mr. Chairman, by the Attorney General as to the reading of this letter.

SENATOR YOSKO: Do you have evidence of the facts contained—

THE WITNESS: I think the Chairman overruled on that.

CHAIRMAN TOMPKINS: We will permit this letter to be read for what it is worth, and if there are any further objections to it the author of the letter can be called before the Committee to verify it.

THE WITNESS: This letter is addressed to me by Charles F. G. Smith, member of the Bar with offices at 1616 Walnut Street, Philadelphia 3, Pennsylvania. It is dated March 14, 1956:

"Honorable Arthur P. Bretherick
"Delaware County Courthouse
"Media, Pennsylvania

"Dear Art:

"My heartiest congratulations on your efforts to expose the political decisions on the part of the Board of Pardons.

"It may be interesting to you to know a slightly different angle to this which I am prepared to present with my own case as an illustration. It is a matter of record that prior to this Democratic I had a record of approximately 75% success over a period of almost ten years, during which I presented five or ten cases each year. I have presented seventeen cases to this Board and all of them have been refused.

"It is obvious that all of the cases presented last year could not have been so different from the others and, therefore, some other reason than legitimate causes must be looked for to explain this inconsistency. I present the following points for your consideration:

"Just prior to the Democratic victory I was endorsed by Chester County, as you know, for a state appointment because of services I had rendered the Republican party in my community. In fact Mr. Truscott offered me two Deputy Attorney Generalships; one with the Department of Highways and the other with the Department of Utilities. I had to refuse both of these because they wanted me in Harrisburg full-time and the salary was too low to enable me to support my family.

"It is quite evident that this fact was known to the present Attorney General primarily because Mr. Truscott was doing some legal research on a case that I had presented to the Board and this was in the process when the new administration took over. I am, therefore, quite sure that it was brought to Mr. Cohen's attention before it was turned down.

"Another case was being investigated personally by Mr. Linvengood and he, in front of the new Democratic members of the Board, in a regular session, while he was

still sitting, promised me on behalf of the Board that if I would present a new petition including two recent sentences of the applicant that the Board would grant commutation. Names and facts concerning these cases can be produced.

"After several turndowns, including the two mentioned, I wrote a letter to Mr. Finnegan complaining about the partisan handling of cases which had been brought to my attention through various sources which I was able to trace to their sources and verify to some extent. I also called attention to the two cases I have mentioned to you.

"After some time I realized that Mr. Finnegan was ignoring my letter and stopped in to see him personally. He began to rave irrationally about my letter, stating that he had dictated a reply but tore it up. He claimed that he had never, in all his years of political experience, received such a letter. (Although he readily admitted that I put a saving clause in the letter which prevented him from using it as a direct accusation of political activity on the part of the Board.) He concluded this interview abruptly by stating that this would not, however, influence any later decisions of his or of the Board regarding cases that I might present. I told him that I wanted this assurance before I took any more fees from applicants.

"Despite this assurance the Board turned down four more cases. One case in particular I took the trouble to investigate personally for two days in Clearfield, Pennsylvania, to the point where the whole town desires that the applicant be released, including the present and former Judge who tried the case. The Veterans of Foreign Wars Post, which was robbed by the applicant, wrote a personal letter to the Board of Pardons requesting the release of the applicant. I checked with every conceivable person, including the Parole Office, Chief of Police, District Attorney and State Police, who could possibly oppose this application and found that no one was against it.

"I can, therefore, conclude only that it is because of the personal prejudice against me, as a member of the Republican party, that the Board has refused this case, as well as so many of the others I have presented.

"These failures have, of course, spread around the two penitentiaries to the point where a large part of my business has been extinguished completely and has caused me to make a last ditch stand to save my practice at the present location. I can, therefore, say, with some conviction, that this administration has conspired against what I considered a very good Pardon Board practice, around which I built more than half of my general practice.

"For the above reasons you can understand why I can support your efforts heartily and am more than willing to offer my services, if I can afford to do so, in furthering this campaign against the Board of Pardons. You may, of course, use any information in this letter anonymously as I am accepting no new Pardon Board cases under the circumstances. I do, however, have three which were contracted for last year which will be presented during or before the June Sessions. After that time I will be willing to come out in the open and carry on this fight in any way that may be deemed necessary.

"Cordially yours,

/s/ "Charlie Smith"

I want to say gentlemen in my long experience in the law, and I have been in the law business since I was fifteen, you do not have a batting average of seventy per cent and suddenly wind up, because there is a new administration, with a batting average of 000. It does happen. Things, human nature and the law of average just do not work that way.

CHAIRMAN TOMPKINS: Mr. Kohn, the information contained in that letter is rather startling as well as revealing. I think you should contact the writer of that letter and have him brought in to make a further elaboration in connection with the matter he raises therein.

BY SENATOR YOSKO:

Q I just want to ask one question in connection with the letter. Here is a fellow who complains about the Board not taking favorable action on applications, is that right?

A Certainly.

Q And because they did not take favorable action on the applications he says "politics." You come up here and say when they release somebody, you say there is politics because they release them. In one case you say it is politics because they do not release them and in another case you say it is politics because they release them.

A I am just not stupid enough to follow your logic I read this letter to you for the purpose of showing that a man who for ten years had had a substantial practice for the Pardons Board had a batting average of 700, if we want to talk in baseball batting averages, and when the new Pardons Board came in he batted 000. I would not even keep that guy on the bench if he played on my ball team.

BY REPRESENTATIVE LOPRESTI:

Q Would you say the seventy-five per cent average was politics?

A I said to you a while ago that I am not saying that this Board was anymore animated by politics than any other Board. I have said publicly and I say to every one of you that there have been abuses. I can think back to the Terry case when we had a Republican Pardons Board. In fact, I can think back to the Blackie Zupkosky case or whatever it was, when we had a Republican Pardons Board.

I want to impress on every one of you as strongly as I know how and on the people of Pennsylvania that we ought to rip out the Pardons Board by a constitutional amendment and place on that Pardons Board persons who would not be affected by politics. You cannot mix justice and politics at one and the same time anymore than you can mix religion and politics or oil and water. The system is wrong when you have a Pardons Board which is completely one-sided, whether Republican or Democrat. I am not condemning one more than the other. Politics have been played both ways. Politics have had their influence both ways, but when you have a system that makes possible the release of hardened criminals then with a record extending over twenty-three years—and do not forget that most of the times that the man was released by the magistrate and we lawyers know what happened in many of these cases they were Republican magistrates. I am not ap-

proaching this on a partisan angle. It happens to have been mentioned in that particular letter that this man was being punished because he was a Republican. I think the same thing could just as easily have happened had it been a Democrat, but for God's sake, rip out the Pardons Board by a constitutional amendment and put in somebody who will not be influenced or not subject to influence. The Pardons Board should be like Caesar's wife, above suspicion. And if you are going to have respect for law and order in this Country of ours at the time when Lord knows we need it, you better eliminate any influence that might tend to lessen the respect of the American people for our courts, for our judicial system generally and for our system of government. That is—you probably might consider it a speech, but that is the way I feel about it and I feel about it as deeply as I feel about anything in the world.

BY SENATOR YOSKO:

Q Judge, in this Caserta case, this fellow has a long record and one of the cases involved a Federal charge. I think he was found guilty as tried before Judge Welsh or was found guilty and pleaded guilty before Judge Welsh.

I think he gave him a fine and a five year sentence.

A Oh yes, and put costs on.

Q Have you—do you think Judge Welsh suspended the sentence because of political considerations?

A I certainly will not pass upon what may be on the mind of another judge, but let me tell you something that in Delaware County every person found guilty of the violation of the gambling laws regardless of who it may be goes to jail, everyone of them. We do not put costs on them. We do not—

Q Some go to jail on longer terms than others?

A Some go to jail on longer terms than others depending upon their record. I sent a fellow who had been tried, who had been arrested and tried in Philadelphia fourteen different times and never spent a minute in jail. He came out to our county and he was in business about three weeks and I gave him eighteen months. I gave another one twenty-three months. I gave Salerno —and it is heresay, I do not have any knowledge of it, he is supposed to be a rival of this fellow Caserta— I gave him eighteen months. We do not put up with these things in Delaware County. Everyone of them goes to jail.

Q Are the other judges in Delaware County as tough as you say you are?

A The judges of Delaware County have agreed amongst ourselves that any man who pleads guilty even at first offense in a gambling case goes to jail for three months. If there are circumstances which make it advisable to reduce that sentence, that sentence will never be reduced unless all four judges concur.

Q Judge, I have the record of gambling cases of Delaware County here. There is one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen pages of and the sentences vary. Some you give a suspended sentence, some get thirty days some of them sixty days, some of them are discharged, some of them are nol-prossed. How do you account for that?

A Just be specific and I will probably be able to account for that.

Q All right, take a look. I will give you the list.

MR. KOHN: May I ask a question, Mr. Yosko?

SENATOR YOSKO: Yes.

MR. KOHN: Is this all the cases or just some of the cases you have picked out? I have not seen this list.

SENATOR YOSKO: These are over a period of years.

MR. KOHN: Are these all the cases over a period of years?

SENATOR YOSKO: Supposedly.

CHAIRMAN TOMPKINS: How far back do they go?

SENATOR YOSKO: Back to 1950.

THE WITNESS: Well I would like you to tell me whether they are all the cases. I can say to you without fear of contradiction, and you can check the records, that every gambler that comes into our courts whether he pleads guilty or is found guilty after a trial, if he pleads guilty the minimum is three months, depending on his record. If he pleads not guilty and is found guilty then he gets a five month sentence and a $500 fine.

BY SENATOR YOSKO:

Q Since what date had that policy been enforced?

A That policy has been enforced as a result of an agreement by the judges of our county in order to stamp out gambling. That applies to any person no matter who he might be.

BY CHAIRMAN TOMPKINS:

Q When was that policy adopted, Judge?

A That policy was adopted, I would say, in 19—— I went on the bench in 1949. I would say that that policy was adopted in 1950 when Judge Irvin was the President Judge of our court.

REPRESENTATIVE BELL: May I ask Senator Yosko a question. Are they certified copies of court records?

SENATOR YOSKO: This I got from the Pennsylvania State Police cases and covers a period from January, February, March, 1950 to November 27, 1956.

REPRESENTATIVE BELL: Well was that certified as correct by the Secretary or Attorney General?

SENATOR YOSKO: No, it was certified by the Deputy Commissioner of the Pennsylvania State Police.

REPRESENTATIVE BELL: Are all these convictions which are in this report State Police cases or court cases?

SENATOR YOSKO: These are—ninety-nine per cent of these are court cases, and I will turn this over to our counsel. Because we are pressed for time, I will not go into the record of the sentences but at some future date when we hold a hearing, and I am assuming it is going to be on this particular subject, I do want to introduce into the record the sentences that were given in these cases involving gambling, prostitution, bookmaking, lottery, selling stolen goods, conspiracy and that sort of thing to make a comparison between the sentences imposed here and the sentence imposed in the Caserta case.

I am not trying to defend Caserta. Frankly, he got suspended sentences on a number of occasions I believe, and the next time that he committed a crime I think the judge who imposed the sentence should have called him back and put him to jail.

REPRESENTATIVE BELL: Mr. Chairman, may I ask a question?

THE WITNESS: Let me answer that please. I have

already given you two instances, the two that I tried; a fellow by the name of McCullough from Philadelphia. If it is on that list, you look at it and you will see that he got seventeen months. I have already talked to you about Salerno who was supposed to be a rival of Caserta who was sentenced by me to eighteen months. There is no different treatment to Caserta than any of the others if that is what you are inferring. It just did not exist.

SENATOR YOSKO: I am not talking about you. I am talking about the system of sentencing generally—

REPRESENTATIVE BELL: May I respectfully—

SENATOR YOSKO: In Delaware County.

REPRESENTATIVE BELL: May I respectfully make a suggestion to you that you turn that over to the District Attorney and let him check the records. After all, that is not our function, Mr. Chairman.

CHAIRMAN TOMPKINS: He is going to turn it over for the general counsel.

THE WITNESS: Mr. Chairman, I would certainly be glad to accept—

CHAIRMAN TOMPKINS: It will be in the hands of our general counsel, Judge.

BY SENATOR YOSKO:

Q In view of this long list of cases on gambling, did you ever—

A That is not a long list. Do not call it a long list. I do not have any long list of gamblers.

Q What is to determine a long list and a short list?

A. You just refer to it as a list. We do not have long lists in Delaware County.

Q. In view of this list which I consider a long list of cases on gambling, did you ever call it to the attention of the Grand Jury in Delaware County?

A. If I can get copies of my charges—I will tell you as I have always told the Grand Jury in Delaware County that Delaware County has a reputation of being the county of good government, it's a clean county and it is going to stay that way, and they are not to let any influences, political or otherwise, in any way influence them into finding a true bill against an individual.

I sentenced the brother of one of our county officials, an elected parole officer, and he got the same sentence as anybody else.

REPRESENTATIVE BELL: Mr. Chairman, may I return to this list. May I ask Senator Yosko whether this list was prepared for an attorney by the name of Ginsburg who represented Mr. Caserta?

SENATOR YOSKO: This list was prepared for me as a member of this Committee and the letter is addressed to me.

REPRESENTATIVE BELL: May I ask Mr. Chairman. that Senator Yosko inquire of the State Police as to whether the list was originally prepared for Mr. Ginsburg.

SENATOR YOSKO: I do not know if it was prepared for him. I asked for just a list of State Police raids of arrests in Delaware County from 1950 up to the present time, and I do not know whether that list contains cases that might have developed through arrest by local police or the county detectives or by anyone else. I will be glad to ask Mr. Kohn to check the records and supplement this list with lists involving local arrests or arrests on the local level that do not involve the State.

CHAIRMAN TOMPKINS: Let's let that be done and we will take this subject up at a later time after an analysis has been made of this situation.

THE WITNESS: Gentlemen, we would be very happy to have you look into it because we are proud of our record in Delaware County.

CHAIRMAN TOMPKINS: Now, Mr. Kohn, do you have anything further to proceed with in the examination of this witness?

BY MR. KOHN:

Q I would like to know whether you joined in the opinion of the lower courts in the McSorley appeal for a new trial?

A I certainly did. Every opinion in our courts is submitted to all of the other judges for approval or disapproval.

Q Did you join in it also or were you rather consulted in the sentence given to Mr. McSorley and his associates?

A I most certainly did. We discussed the sentence.

Q And was there any basis of fact or facts of the allegation placed by the Pardons Board that the court and jury were undoubtedly influenced by the attitude of the general public in these cases?

A That is another figment of somebody's imagination. There is certainly not. It is ridiculous.

Q Is there any basis for the allegation placed by the Pardons Board on the release of these defendants on the ground that the applicant and his accomplices were the only persons arrested, and as they were the only persons arrested they bore the burden of the resentment of the community despite their vigorous denials

A There is nothing to it. It is ridiculous

Q Do you think that the actions of the Pardons Board in this case had any effect on law enforcement?

A Well, gentlemen, I have expounded at some length upon this particular subject and again I say this was public property. This was a public courthouse and there is no question at all about the effect of what this McSorley—of this Pardons Board action in this case had on the general public. I have got scores of letters in my file.

Q Do you have any suggestions to make to this Committee in regard to the Pardons Board procedures or actions that you would like to place on the record?

A I would. Rip out the Pardons Board; it stinks.

MR. KOHN: I have no further questions.

BY REPRESENTATIVE LOPRESTI:

Q Judge, among the other things that you either are or have been, are any of them holding office in the Republican Party of Delaware County; party offices?

A I have the proud distinction of having been the Chairman of the Republican Party of Delaware County for a period of six years.

Q Are you so Chairman now?

A Well that is a ridiculous question. I am a judge. Judges do not sit as chairmen.

Q I am just asking you a question. Whether it is ridiculous or not in your opinion, I am not asking. And another thing have you—you say that you believe there is politics in both parties. Do you believe, in your opinion, that politics—

A I did not hear that.

Q Do you believe in your opinion, that politics have entered into the discussions or deliberations on both parties?

A I most certainly do.

Q Have you ever gone to the trouble to make a statement to another Grand Jury during the time the Republican Pardons Board was considering cases?

A In my time there was no case which was as putrid in odor as this Caserta case and the other case.

Q Well, you mentioned a couple of them, that happened in your time which you are willing or can still remember the names.

A I was a practicing lawyer at that time and those things happened maybe twenty years ago. The Blackie Zupkosky case and the Terry case happened probably fifteen years ago. I happened to play golf every Sunday with the brother-in-law of the policeman that was killed and I was interested, and my father was a policeman. That is why I feel so strongly about that situation.

Q Did you express any public indignation at that time that would start to arouse any public opinion against the action of the Board?

A I said to you that I was a practicing lawyer at that time and not a criminal lawyer.

Q I just asked you if you expressed any indignation?

A No, no.

Q All right, that is all.

BY REPRESENTATIVE BELL:

Q Judge Bretherick—

CHAIRMAN TOMPKINS: Just a minute. I want to get this thing in order. We will go down the line.

BY SENATOR YOSKO:

Q I have a couple more questions. Judge, I have a newspaper clipping here before me dated February 23. 1957. Is it the Chester Times. I did not have time to go over it very carefully. It involves Francis X. Ballem, and from the reading of this newspaper story do I understand it—I am asking a question now—do I understand it that the judges, with the exception of yourself I believe, granted a stay of execution without going through the Pardons Board for this convicted murderer?

A An application was filed, as I understand it. Judge Toal can tell you that. He was the one who tried the Ballem case. An application was filed for a stay of execution in the Ballem case. Our Assistant District Attorney came back and told us that, in his opinion, and he got that opinion primarily from what the Attorney General said at that hearing that there was going to be a stay of execution. A petition was filed for the appointment of another commission to investigate into the lunacy or the sanity or insanity of Francis X. Ballem because of the law which was passed in 1956 which provided that after a person was convicted he had a right to have a commission determine whether his mental condition had so far deteriorated that he should not now be executed. That petition was presented by his counsel, William Turner, and it was joined in by our Assistant District Attorney. Paul R. Sand.

Q Is it not a fact that just the day before, the Ballem case was argued by Assistant District Attorney Sand before the Pardons Board in front of Mr. McBride?

A I think it was the day before. Now, do not hold me to that please as an answer. I do not know, but I think that it was.

Q Do I understand from these clippings and from this clipping, from this story—I am just asking questions—that the local judges granted a stay of execution and it was not the State Pardons Board?

A Yes

Q And in this—

A Now just a minute please. You asked your question, now let me answer it. The local judges felt, at least three of them did—I did not. The local judges felt that under the law they had absolutely no alternative and they were compelled to stay the execution in order to appoint a commission and further inquire into this man's sanity. They did not do it because they wanted to. They felt that they had no other alternative, and Judge Toal will bear me out on that. He was the man who tried Ballem.

Q And in this article you are quoted as saying that—I will read it.

"Judge Bretherick said about Dr. Roach's testimony"—I guess he is the doctor who made the examination—"'I don't think his testimony is worth a nickle.'"

A I do not think it was worth three cents.

Q Do you think the other three judges acted improperly then to the extent of their actions since you dissented from this action?

A I did not agree with it. So far as I am concerned I think Ballem ought to be put out of the way. He was a vicious murderer and has had his day in court. This crime was committed, I think, in 1953 or 1954, but please do not hold me exactly to the date. He has had his case all the way up to the Supreme Court of the United States. He was given a fair trial. The people of our county thought he was sane. A commission examined him and thought he was sane. And, of course, we expect these various actions to be taken by counsel. They have a responsibility to do everything they can for a man who has been or was either being tried for a murder or has been convicted of a murder. It is their responsibility under the law and the oath which they take as lawyers to do everything that is humanly possible and, personally, I feel that that man would be better if he were out in some cemetery right now. He is entitled to his day in court and he is getting it.

Q Now just one more point I would like to clear up here, Judge. This article quotes you as—maybe we ought to make some changes in the law to deal with cases of this kind. You are quoted here as saying: "At another point he charged that the Legislature ought to have its head examined." What was that?

A That was a misquotation. I said, "That Legislature ought to have its head examined." That had to do with the change of this law. We have got social reformers running in and out of government changing the law with regard to murder cases and they are making it more difficult all the time, and that was the reason I made that remark. The law was changed in 1956 which says that even after a man has been convicted, found sane by a jury, found sane previously by a lunacy commission, had his appeal go to the Supreme Court of Pennsylvania, to the Supreme Court of the United States, they say that even then you may come back and ask for a lunacy com-

mission to be appointed. Now I will make a recommendation to the Legislature of the State of Pennsylvania, which I had the honor of being a Member, eliminate capital punishment. If this is the way they are going to keep making it difficult to convict these criminals, you will render a great service to the judges of the Commonwealth of Pennsylvania if you did.

Q Judge, I have another case here—

A I am not in favor of it, understand.

Q Judge, I have another case here and the headlines—here in the Chester Times on September 21, 1956, the headline is—I am going to show you the paper—"Judge Asks for Probe of State Parole Board on Release of Thief"—a Robert Shutters.

A Will you please repeat that.

Q The headline reads, "Judge Asks for Probe of State Parole Board on Release of Thief" and I think it developed that it was not the Parole Board that released this thief; it was the judges back home.

A I have no complaint about the Parole Board. I think generally they are doing a very fine job.

Q Well, in this particular case of Shutters, it was not the Parole Board who released him. It was the judges back home, was it not?

A Pardon?

Q It was the judges back home, was it not; back in Delaware County?

A I do not think so.

Q I recall that was a fact. After the case was investigated the sentence was changed in Media, but you say not by the judges and not by the Parole Board or by the Pardons Board.

A I do not remember that case and I do not remember the facts.

Q We will look into that one a little bit more. I have just got one more question of you, Judge. Have you ever consulted with the District Attorney on recommendation that are made by the District Attorney's office on petitions for pardons or commutation of sentences?

A Yes.

Q And what instructions, if any, did you give them or what advice, if any, did you try to give them?

A I do not give them instructions. We do not instruct the District Attorney what to do, he is an elected official of our county. He investigates with discretion and exercises that discretion. Sometimes he discusses with the judges their feeling on whether persons ought not to be pardoned or pardoned.

Q I have a list of cases here from Delaware County from February, 1955 to February, 1956. They involve all sorts of crimes, and I have a little note here on a number of cases in which on a number of cases they opposed the District Attorney's office. That is, on a number of cases they recommended either a commutation or a pardon.

From my counting, in twenty-two cases they opposed and in thirty-one cases they went along with the petitions. These cases involved a series of crimes, robbery, sodomy, voluntary manslaughter, murder, rape, burglary, arson, and that sort of thing.

Do you think the District Attorney, who is the prosecutor for the county and works in cooperation with the judges, should appear before the Pardons Board and make favorable recommendations to change the sentence of a judge once he imposes it?

A Let me tell you my experience. I am going to give you a roundabout answer.

I wrote to Frank R. Hean, Secretary of the Board of Pardons on March 14, 1956. I wrote to him:

"I have received your letter of March 4th enclosing application for clemency filed by Joseph Lord with your Board. In view of the unpleasant experiences which our Court has had with the Board of Pardons I do not intend to make any recommendations to the Board as it is presently constituted."

I have not lived up to that entirely. On March 23rd, I received a letter from Mr. Hean:

"Dear Judge Bretherick:

"I submitted your letter of March 14, 1956, in which you stated you do not intend to make any recommendations to the Board of Pardons 'as it is presently constituted' to the Attorney General. He referred me to the Act of April 24, 1931, P. L. 71 (71 P. S. Sec. 299A), which states as follows:

"Whenever the Board of Pardons shall request information and advice relative to any application for a pardon or commutation of sentence from the judge who tried and sentenced the applicant, or the district attorney or assistant district attorney who prosecuted him or her, or from the district attorney in office at the date of the application, it shall be the duty of such judge, district attorney or assistant district attorney promptly to comply with such request.

"The Attorney General suggested that I call this provision to your attention and reiterate the Board's request for advice. The judges and district attorneys throughout the State are most helpful to the Board, and it feels that it does not wish to dispense with such valuable assistance in its determination of the many cases heard by it.

"Very truly yours,

"FRANK R. HEAN"

I was going to throw it in the waste paper basket, but I did not. What is the use of writing to a Pardons Board which ignores your letters? It is a waste of time and a waste of effort.

Q Judge, I want to get an opinion from you. I respect your opinion.

What do you think the function of the Pardons Board is? Why do you think it was set up? What do you think its function is?

A I think the Pardons Board—the function of the Pardon Board is to give a man a clean bill of health. A pardon gives an individual a clean bill of health. It lets him start all over again; start afresh. And I say to you that there are many, many cases where that is a most desirable thing to do.

I am not opposed to pardons as pardons. I am opposed to pardons where people are sentenced to twenty-four months for a crime against the public property and then being turned loose again in four months. I am against a pardon for a man who has a long record extending over twenty-three years, who is given two years or eighteen months and has his sentence commuted to eleven months. That is the only thing I am opposed to.

I am not opposed to pardons, for there are a great many, a great many individuals who are now in our jails that, certainly, if they would be pardoned they will go forth and they will sin no more. They are not the type of people that I am railing against. I am railing against people of the type that I have talked about. A man like Darcy that commits one of the most vicious crimes that has ever been committed in the State of Pennsylvania and they commuted his sentence to life imprisonment, and we all know what that means.

Q Judge, what factors do you think a Pardons Board ought to take into consideration in arriving at a decision, regardless of the charge or regardless of the crime.

A I think the Pardons Board ought to take into consideration every possible factor in the man's background; his family associations, his mental condition, whether he is a recidivist, whether he has committed other crimes, whether he is a hardened criminal, or somebody who got into difficulty for the first time, and certainly judges do exactly that.

When we sentence we have before us the record of an individual. We do not sentence every man who is convicted of the crime of burglary, to the same offense, if it is his first offense. If it is a young boy that has never been in trouble before, we certainly give that favorable consideration. If, on the other hand, he has a record extending two or three pages long, and believe you me, we have them, we are not inclined to be as friendly with that individual as we are with the poor young fellow that has never been in trouble before. And I assume that the Pardons Board of the State of Pennsylvania gives consideration to the same factors; I would, if I were a member of that Pardons Board.

Q If a Pardons Board looks into all the factors that you say that should be considered, and they find that during the period the person was sentenced he changed his way of life, and there are other favorable factors appear in his behalf, do you think the Pardons Board is justified in commuting his sentence or granting a pardon?

A I have got a specific answer to one of your questions, if you are referring to Caserta as one of those. Well, let me tell you about Caserto.

Q I am talking generally now.

A Well, let me talk to you about Caserta and his change of life. A month after his sentence was commuted, the wires were tapped at a fence in the Borough of Yeadon. Michael Caserta called to find out whether he could buy two hot suits, stolen suits, and he was to pick those two suits up at 2:00 o'clock. But, because the other individuals were there that they wanted, they were fearful that if they waited for Michael Caserta, they would not get the other individuals. We got the other individuals, and as a result, they pleaded guilty. That is a month after his commutation.

Q Well, now you talked about Caserta, but you did not answer my question as a general proposition on the action the Pardons Board should take after it considered all of the factors that you say ought to be considered in commuting a sentence of granting a pardon?

A I am not going to answer for this Pardons Board. I think when they look themselves in the mirror the day after they did some of those things, they must have been ashamed of themselves when they saw the reaction of the people of Pennsylvania, and the people of Pennsylvania cannot be wrong—I think that is the answer.

Q I just have one more. Judge, sometimes I wonder how judges arrive at their decisions and I just wonder how people click. I have another case here in which you imposed sentence and it is Walter M. Lescoe.

A Walter M. Lescoe?

Q That is right. This is another Chester Times newspaper article, it is dated March 21, 1950.

A That is right. That is shortly after I went on the bench. I am not excusing what I did because it was a short time after I went on the bench, I just mentioned that to you in passing.

Q The fellow was charged with murder and he pled guilty to murder.

A That is right.

Q Of a thirty-four year old Chester Navy veteran; and for murder, you gave him only ten years.

A Yes sir. ten to twenty, I think.

BY CHAIRMAN TOMPKINS:

Q Now, is this a case that reached the Pardons Board?

A No.

Q I do not think we ought to go into all the cases this witness may have tried. We are concerned only with matters which have reached the Pardons Board.

A I can answer that if you want me to, sir.

BY SENATOR YOSKO:

Q What I am trying to do here in my own mind is sort of make a comparison of what people do.

A I can answer that. I am very happy that he has to go back seven years to find something to complain about. I am very happy that he has to go all the way back to find something to complain about. That man was—

Q I am not complaining, sir, I am asking you a question?

A That man was intoxicated; so drunk that he did not really know what he was doing. That is the reason he was given ten to twenty years. That is the sentence for murder in the second degree.

MR. KOHN. That was a second degree case.

THE WITNESS: A second degree.

BY SENATOR YOSKO:

Q They convicted him on second degree?

A He pleaded guilty to murder generally, and I found him guilty of murder in the second degree.

MR. KOHN: That is the maximum on murder in the second degree?

THE WITNESS: That gives me a lot of pleasure when you have to go back that far to find something to put your finger on.

BY SENATOR FLEMING:

Q Judge, in line with trying to do something to better the work of the Pardons Board, do you think when they only take eight to ten minutes on each case upstairs, there should be more time allotted?

In other words, as I understand it, from talking to Mr. Hean, they hear seventy—anywhere from seventy to eighty cases in one and a half days, which, divided into minutes, leaves a maximum of eight to ten minutes on each case.

A Unless they know in advance what they are going to do, they cannot do their job satisfactorily where the lives and fortunes of human beings are involved. They cannot devote so little time to consideration of a case.

Q Well then, may I ask, in line with your thought, there should be some revamping or possibly another type of Pardons Board? Should there be a Pardons Board that sat rather constantly rather than one and a half or two days a month?

A There certainly should be.

Q No other duties except that?

A I would say take it out of politics. I do not care whether it is a Republican Administration or a Democratic Administration.

A Now, believe me, Judge. I am not trying to find fault with the present Pardons Board at all. What I am trying to say is that—I am not trying to minimize either —I am not trying to put words in your mouth but, do you feel that because of all the other duties that they have, that possibly society would be better served if we had a Board similar to theirs in number possibly, but whose sole duty would be to hear pleas for pardons?

A No question about it. No question about it.

SENATOR FLEMING: Thank you, sir.

BY REPRESENTATIVE BELL:

Q Mr. Chairman, to clear the record, there was a question asked of Judge Bretherick with respect to his political activities. I think the question did not bring out a clear answer because it just covered his activity as County Chairman of Delaware County. Judge Bretherick, since you ascended to the bench of Delaware County, have you been engaged in any political activity.

A None whatsoever. I was accused by the Governor of Pennsylvania, who came down into our county and made a political speech to the effect that I had officiated at a political meeting in Chetser, which was an absolute lie. That was within the last—that was, I think either the beginning of this year or last year. I have forgotten when it was. He was just mouthing something that he had heard from somebody else. That was absolutely untrue.

Q To your knowledge, have any of the judges in Delaware County engaged in political activity other than in seeking their own re-election since they have ascended to the bench during the—

A No judge in Delaware County has engaged in any political activity. And I want to say that I am a million per cent Republican, and so far as I am concerned, it has not interfered with the performance of my judicial duties, I can tell you that.

BY CHAIRMAN TOMPKINS:

Q I have just one question I want to ask this witness Judge, Senator Yosko was asking you what factors you thought the Pardons Board should take into consideration in arriving at their conclusions. Do you think that the function of the Pardons Board is to judge the guilt or innocence of any person who comes before them?

A No sir. That is the function of the judiciary of the State of Pennsylvania.

Q And of the jury?

A And of the jury. The jury must—in many cases, of course, it is the function of the judge because there is a plea of nol-pros, but the question of guilt must be always left to Pennsylvania jurors.

Q Then you do not think the Pardons Board should use as any basis at any time in their deliberations or conclusions as to whether or not the party whose case is before them was guilty or innocent?

A I certainly do not. In the law we have what is known as the presumption of regularity and it is a wise presumption of the law and there is a presumption of regularity when a man has been tried before a jury and found guilty.

By MR. KOHN:

Q I would like to ask you one further question, Judge Bretherick. In the commutation of Michael J. Caserta, the Pardons Board held as follows: This is the basis of their action: "However, the Board felt that he has served quite a substantial portion of his sentence for this type of offense and took into consideration the fact that his accomplices, who were equally guilty, received lesser sentences and have been released from the Delaware County Prison."

First, I ask you whether any of his accomplices that you can recall had the type of record that Caserta had.

A None at all.

Q Secondly, I ask you whether it is not a fact—

A We never had a man with the type of record that Caserta had.

Q They based their commutation on the fact that his accomplices received lesser sentences. Is it not a fact that one of his accomplices received eleven months and served eleven months?

A Was that Hall?

Q Yes.

A Took his case to Superior Court, I think.

Q He served his complete eleven months.

A He certainly did. And he was only an underling.

Q That is right.

A He was an errand boy for Caserta.

Q What do you think, where the Pardons Board does as it has in this case and numerous other cases given as justification for their action the fact that the accomplices, who were all lesser lights, only received lesser sentences? What is your opinion?

A That is just as asinine and utterly ridiculous as the statement with regard to the McSorley case.

Q Now, in addition to what you stated about Caserta on the record, is it not a fact that he attempted to bribe some of the Commonwealth witnesses in this case.

A I do not know that. I heard it, of course. I do not know. Judge Toal can tell you about that. I do not know.

Q Is it not also a fact that in addition to the record which was put in by you to the Grand Jury, he was also charged with two Federal offenses in regard to his gambling activities, which are not on that list.

A I understand that that was the fact.

MR. KOHN: That is all.

BY REPRESENTATIVE LOPRESTI:

Q Judge, in talking about the Pardons Board, you said that you thought it was a legitimate activity on the part of the Pardons Board to give a man a clean start. Do you feel that the Pardons Board activities should be restricted to pardons and not to commutation of sentences?

A I have no answer to that, sir. I have no answer to that.

Q Well, I think at the present moment they are privileged to grant commutations as well as pardons.

A Oh, yes; yes.

Q Do you think that particular function should be dropped from the Pardon Board—commutation of sentences?

A I do not think that either function should be dropped from the Pardons Board provided you have the right sort of a Pardons Board. You do not have it now, and you have not had it for many, many years.

Q Well, you had not mentioned that in your discussion of Mr. Yosko's question. Do you still think it would be a proper function for the Board to commute sentences?

A I most certainly do. I think the Governor commutes the sentence, not the Pardons Board. They make a recommendation in writing—at least three of them make a recommendation in writing to the Governor and he is the one that commutes the sentence. That is my understanding. I may not be right about that.

Q Judge, in view of the act of Assembly you have read here, is it your purpose now to advise the Board and to continue to advise the Board on cases when they request advice?

A Well, I have softened somewhat. I have advised them on one or two occasions. I had a narcotics case, and to my mind that is one of the lowest forms of criminal activity in the whole world, and I gave the individual involved a two year sentence; and within a compartively short time he filed his application, and I wrote to the Pardons Board—I have the letter here in which I said there was very little use my writing to the Pardons Board because it does not mean anything. I said: "I have before me your letter of October 11"—

Q I heard that, Judge; but, I mean—

A You did not hear this.

Q Is it a different one? I am sorry.

A You did not hear this.

Q Pardon me.

BY CHAIRMAN TOMPKINS:

Q What year is that, Judge?

A This is October 16, 1956. The case—

"Mr. Frank R. Hean, Secretary, Board of Pardons, Department of Justice, Harrisburg, Pennsylvania. Re: Isadore Gorodetsky, #119, September Term 1956."

"Dear Mr. Hean:

"I have before me your letter of October 11th in the above entitled matter. Since this case involved narcotic drugs I do not think that the application has any merit and should be given any consideration. However, after noting the action of your Board in the Darcy case, I suppose my attitude in the matter will receive no consideration whatsoever."

I wrote him that because it was a narcotics case, and I did not feel that the Board ought to give it any consideration, and I do not know whether they did or they did not. I have not heard anything from them.

BY REPRESENTATIVE LOPRESTI:

Q I still want my question answered. Is it your purpose now to supply such advice as you can to the Board if they request it?

A I will have to make that decision as each case is presented to me, and in view of the developments. If I feel that it is going to be a waste of time, as it has been, I will not write to the Pardons Board and I am not going to be intimidated by the letter I received from Mr. Hean, apparently at the direction of the Attorney General.

I do not frighten very easily. I have had to struggle on the way up and battle pretty hard, so I will decide each case as it comes before me. I will write in some cases, and in others, I will not.

Q Judge, do you mean to tell this committee that you are going to ignore the law? Do you feel that you have a right to ignore it?

A Oh, now, do not try to put me in a box. I am saying to you that, what is the use—

Q I am asking a simple question. There is an Act of Assembly which you have heard and read to us here this morning which says that you shall do it, it shall be your duty. I am asking you now whether you intend to do it or not?

A I intend in some cases to ignore that law because it will be a futile thing.

Q That is an example—

A It will be a futile thing.

Q That is an example of law enforcement from the court?

A It will be a futile thing. Yes.

BY SENATOR YOSKO:

Q Judge, I have just one more question. We are here to make recommendations, after we hear you and, I am certain, a lot of other people. I am going back to recommendations from the district attorneys and judges. It is possible that recommendations by district attorneys could be based on influence back home on the local level. Would you recommend that the Board discontinue receiving recommendations from district attorneys on the granting or not granting of petitions for commutation or parole?

A I would recommend that you give the fullest possible consideration to our district attorneys and to their recommendations and that, when they appear before the Pardons Board, they be given a respectful hearing. Mr. Hughes can probably tell you that that does not always take place. I think that they ought to have the fullest opportunity to present their views. I think their recommendations ought to be given the greatest possible consideration. I think the views of the judges ought to be given the fullest consideration. But, when we find that they are not being given any consideration, again I say it is a waste of time to write letters.

Q And you believe the system of receiving recommendations, pro or con from judges and district attorneys ought to be continued?

A Yes, sir.

Q All right.

A I certainly do. I certainly do.

BY REPRESENTATIVE LOPRESTI:

Q Judge, do you base your conclusion that the Pardons Board has not given any consideration to your recommendations merely on the fact that they have disagreed with your recommendations or do you have some knowledge that they do not give any consideration to the local judges?

A You would have me climbing inside of the minds

of the members of the Pardons Board. I do not know what they did. That is what this investigating body is going to try—

Q I am asking whether you have arrived at that conclusion only based on the reason that they have not agreed with you?

A I certainly—

Q Have you concluded that they have not given it any consideration?

A I do not expect them to agree with me in every case. I am not one of those guys that believes everybody is out of step but me. I base my conclusions on three stinking cases.

Q In other words, in three cases they have not agreed?

A And in many cases they have—

Q In many cases they have not agreed. Then you feel that they are not paying any attention to what the judges or district attorneys are recommending?

A I do not say that at all. I do not say that at all. They may have in some cases. I have agreed with them in some cases. I have made recommendations which they have gone along with. I have written in some cases that I feel that the ends of justice have been served and that an individual ought to be given every possible consideration by the Parole Board and by the Pardons Board.

Q Well then—I understand then that you do not say that they do not give any consideration—

A I cannot tell you whether they do or they do not.

CHAIRMAN TOMPKINS: This hearing will take a recess until 1:15 p. m.

(At 12:45 p. m. the hearing was recessed until 1:15 p. m.)

* * * * *

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing on the above cause before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and that this copy is a correct transcript of the same.

NORMA P. KIRKPATRICK

Reported by:
Miss Norma P. Kirkpatrick
307 North Second Street
Wormleysburg, Pennsylvania

INDEX FOR AFTERNOON SESSION

Committee's Witnesses	Direct	Cross	Redirect	Recross
Arthur P. Bretherick		241		
William R. Toal	283	309		

EXHIBITS

Pardons Board	Identified and Received
Exhibit No. 6—	
Letter dated August 11, 1955 to Pardons Board AJP 2/28/57	259
Exhibit No. 7—	
Record of Delaware County Cases to Pardons Board AJP 2/28/57	280
Exhibit No. 8—	
Letter dated August 3, 1956 to Pardons Board AJP 2/28/57	280
Exhibit No. 9—	
Letter dated September 13, 1955, to Pardons Board AJP 2/28/57	285

BEFORE

JOINT LEGISLATIVE COMMITTEE

TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 1:15 p. m., Thursday, February 28, 1957.

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania. For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania. For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania. For—Committee (Assisting Counsel).

AFTERNOON SESSION 2-28-57

CHAIRMAN TOMPKINS: You may proceed.

A. P. BRETHERICK, Recalled on

CROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Judge, as I understand it, you have indicated that you do not believe the question of innocence is open for consideration by the Board of Pardons once a judicial power has thoroughly explored the case.

A I know of no better way in the world to determine a person's innocence than by having a jury pass upon it. And in that case it should never be given any consideration by a Pardons Board.

Q Let me read you a statement here in one of the court journals. "Counsel constantly attempts to argue the mertis of a case which the jury has already decided. The Board of Pardons, as a rule, does not go behind the verdict of the jury in the absence of after-discovered evidence.

"There are, however, in my opinion, exceptions to this and to almost every general rule. Anything which will entitled the prisoner to clemency, anything which will demonstrate that he was not guilty of the crime or will

raise a reasonable doubt as to his guilt, in my opinion, is admissible and pertinent."

Do you agree with that statement?

A I most certainly do not.

Q You do not. Now you have indicated that the Legislature, for passing the statute, ought to have its head examined. Do you think that the writer of that statement ought to have his head examined?

A The writer of what statement?

Q The statement I have just read to you.

A I think that is his opinion. He has a right to his opinion the same as I have a right to mine.

Q But you most thoroughly disagree with him?

A I disagree with him.

Q Well that opinion, for your information, was written by John C. Bell, then Lieutenant Governor and Chairman of the Board of Pardons and now a Justice of the Supreme Court of Pennsylvania.

A I still disagree with him.

Q You, however, do not complain, do you, if the Board of Pardons does agree with it?

A That is entirely up to the Board of Pardons.

Q You would not say that Justice Bell's statement was politically inspired?

A I am not going to comment on the statement by Judge Bell as to whether it was or was not. I do not suppose it was, but I do not know.

Q Now, when you came to charge the jury in March 1955, you said that these five men, one of whom was McSorley—and we have referred to that as the McSorley case—you said that they were hoodlums. Is that based upon their criminal records?

A Yes.

Q Was it?

A Yes.

Q What were their criminal records?

A You mean their prior criminal records?

Q Yes.

A I knew nothing about their prior criminal record.

Q You did not try the case, did you?

A I say I knew nothing about their prior criminal record. I knew about this case.

Q Did you? Did you try it?

A No, but—

Q Were you in the courtroom when it was tried?

A No.

Q Did you hear any of the evidence?

A No, I think I testified previously that that case was thoroughly discussed by Judge Irvin with the other three judges both as to the sentence and the opinion that was written in the case.

Q Mr. Hughes testified that that case was tried by Judge Toal. Was that wrong?

A Which case was that?

Q The case of the five men on the riot charge.

A That case was tried by Judge Irvin, and as the result of an opinion by the Supreme Court was sent back to Judge Toal. There was a petition filed with the Supreme Court for a re-trial, as I understand it. Now please do not hold this against me because of after-discovered evidence. Judge Toal heard that phase of it because at that time Judge Irvin was then on the Superior Court Bench.

Q Now, in your charge to the Grand Jury, you spoke of the Board of Pardons as being tainted and tinctured with politics. Did you base that upon any facts in your possession?

A No more than the Board of Pardons could base its action in these two cases on facts which they did not have before them. They based their decisions in those two cases upon facts having to do with public opinion, and so forth, in the locality which were absolutely unjustified. There was nothing in the record.

Q Were you present at the Board of Pardons hearings and do you know what arguments were made on behalf of these men to the Board of Pardons?

A Certainly not.

Q You have spoken of a highly respected member of the Bar of Delaware County having represented these men. That was present Judge Kraft?

A Yes.

Q All of us share that same high respect. Did Judge Kraft contend in the trial of these cases that these men were actually innocent?

A I think he did.

Q You respect him, nevertheless, because he made that contention?

A I most certainly do.

Q Did Judge Kraft contend in the Appellate Court that these men were entirely innocent?

A I do not know, but I am sure that he did. The Appellate Court did not agree with him.

Q Well, did the Appellate Court have before it the question of innocence? Is it not a fact that all that the Appellate Court had before it was the question of the sufficiency of the evidence to support the verdict?

A That is probably—

Q That is a different question from whether or not the men are actually innocent, isn't it?

A Yes.

Q Now no judicial power, except perhaps on the rare case of a writ of error coram nobis goes into the question of actual innocence, does it not?

A That is right.

Q So that in cases where despite what on the record constitutes a fair trial, the only avenue open in Pennsylvania for a decision on the question of actual innocence is the Board of Pardons. On the question of actual innocence?

A The issue of actual innocence? I do not think that that issue is before the Board of Pardons.

Q You do not? Then you would say—

A The issue before the Board of Pardons is this: This man has been found guilty by a jury in this particular case which went all the way up to the Supreme Court of Pennsylvania. They apparently agreed that what the jury did was right. I do not think the Pardons Board has a right to pass upon the question of innocence. The Pardons Board's function is to determine whether that man paid his debt to society.

Q Then, let me ask you this question, Judge. Since a judicial power does not determine guilt versus innocence, but only the question of whether the evidence was sufficient to sustain the verdict, then you would say there is no power in Pennsylvania that can set free a man who is actually innocent and who has been properly convicted on good evidence before a jury?

A No, I do not say that at all.

Q What power can do it?

A I say that there is the right of appeal to the Appellate Court and the Appellate Court has the right if it feels that a man has not been properly convicted to send him back for another trial, as they have done in the Turner case, I think five times. The Appellate Court was apparently satisfied that some error was committed or that the man should not have been, because of the record before them, convicted. They sent that back.

Q Yes, Judge, but that is not the question I asked. Let us assume a record in which no legal error has crept. A record in which, so far as the law is concerned, no inadmissible evidence has been offered or received and the man has been convicted and there are no trial errors. You agree, do you not, the question on appeal to the Supreme Court of Pennsylvania is not open to assert I am actually innocent, even though convicted in accordance with the forms of law?

A No, I do not. I think they have a right to assert that I am actually innocent even though I was convicted in a court of law.

Q Do you know any case in which the Supreme Court of Pennsylvania, in the absence of an error of law, has ever granted a new trial on the ground of innocence?

A I do not think I do, no.

Q Do you know of any instance in which any Appellate Court in Pennsylvania has ever granted a new trial on the plea of innocence absent trial error?

A I do not know of any.

Q But you say they have that power?

A I think they have that power.

Q Where do they get it?

A I think it is the inherent power of the court as an Appellate Court. They have the inherent power as an Appellate Court.

Q Inherent in what?

A What do you mean, "inherent in what?"

Q You say inherent. What do you mean inherent?

A Inherent power of courts generally.

Q Well, courts are created by law.

A Yes.

Q You mean it is even inherent in them by reason of something other than law?

A No, no.

Q Where do they get this power?

A I say they have that power generally. There are a lot of things that are not in the statute law. The courts have inherent common law powers. A great many powers.

Q Now, do you know any court which has ever exercised such a so-called common law power?

A I do not know either way.

Q The fact that, if it be a fact, that no court has ever exercised such a power would indicate that it did not have that power of common law?

A I would think so. Yes sir.

Q Now, did the Grand Jury respond to your charge by itself complaining about the Board of Pardons?

A To my charge?

Q Yes, to your charge?

A I had nothing to do with the Grand Jury until they came in and made their report. From the time the Grand Jury was charged and sent on their way to do their work, I had absolutely nothing to do with the Grand Jury until they came back with their report.

Q Right. But you charged the Grand Jury condemning the Board of Pardons before they started to deliberate, did you not?

A Yes.

Q Yes. Now then did they come back with a report agreeing with you?

A Let's see. Maybe I can tell you what—I do not remember exactly what they said.

Q I am not interested in the particular language and I do not want to hold you down. Generally, they agreed with you?

A Yes.

Q Usually Grand Juries do agree with the charge, do they not?

A Sometimes, yes; sometimes, no; most of the times they certainly do.

Q Now, you charged them to look for political purposes. Did they report that they had found any?

A Certainly not.

Q Did you send your charge or the Grand Jury's report to the Board of Pardons or to the Governor of Pennsylvania?

A No.

Q To whom did you send it? The newspapers?

A The newspapers were there. They were there when I charged the Jury and they were there when the Grand Jury came in. They are always there. They have a right to be there.

Q You said, I am sure inadvertently, that this man Caserta got seventeen months to thirty-five months. That is one month short of the maximum?

A That is right.

Q Now, he was charged with the crime of conspiracy?

A Yes.

Q And of lottery?

A Yes.

Q That is, a conspiracy to commit a lottery?

A Yes.

Q And the actual commission of the lottery itself?

A Yes.

Q So that he got the limit on the commission of the lottery and he got one month less than the limit in addition on the charge of conspiracy?

A I think he was given six to twelve months on the one, and eleven to twenty-three months on the other.

Q That is right. Two years is the limit, you agree, for conspiracy, is it not?

A Yes.

Q But the conspiracy was itself a part of the lottery, was it not?

A Yes. It is a separate crime.

Q But they were added together, the agreement to enter into a lottery and the consequent getting into the lottery were made consecutive sentences?

A Yes, by Judge Toal, who I am sure can give you reasons for it. We were dealing not with an ordinary criminal.

Q Judge, I am no more challenging Judge Toal's right to exercise his judicial functions that I am claiming here the right of the Board of Pardons to exercise its functions. I am not going to challenge judicial discretion. My purpose here is to defend the Board of Pardons' discretion.

A If I may say something here; as a member of that Board of Pardons, I think that you as the Attorney Gen-

eral of Pennsylvania ought to disqualify yourself, the same as every self-respecting judge in the Commonwealth of Pennsylvania would disqualify himself in a case in which he had an interest, and you have an interest.

Q Now, since you have raised that question, I should like you to attempt to justify it. Do you consider that in my capacity appearing at this investigation, I am acting in a judicial capacity?

A No sir.

Q I am acting as an advocate, am I not?

A Yes sir.

Q Are advocates disqualified because of an interest?

A No sir.

Q What is it that would disqualify me, in your opinion?

A Because you are a member of the Board of Pardons, which has a quasi-judicial function.

Q If I were a member sitting on the Board of Pardons, hearing a case, I would be the first to agree with you that I should disqualify myself where I am exercising what you have been pleased to call that quasi-judicial function. But here, am I deciding cases? Am I doing anything else except what a lawyer does? Do you think a lawyer is disqualified from representing a defendant because he believes that defendant to be innocent?

A No sir.

Q Do you believe the prosecutor is disqualified from prosecuting because he believed the defendant to be guilty?

A No sir.

Q Well then, in what respect am I, sitting here as a lawyer representing the Board of Pardons, in any way disqualified since I am making no judicial or quasi-judicial findings whatever?

A As a matter of conscience, I can give you no other answer.

Q Well, where do you get that sense of conscience? Because mine is quite equal to your own, and I do not feel it.

A You and I disagree. That is perfectly all right.

CHAIRMAN TOMPKINS: Let us not get into personalities.

ATTORNEY GENERAL McBRIDE: Well, who got into them? Do you think I am going to sit here idly and accept this kind of a bitter personal attack?

SENATOR SCOTT: Mr. Chairman, the question of the situation which is being discussed here was raised. The committee resolved it.

It may not have been to your satisfaction, Judge, but at least you abided by the decision of the committee and I think we certainly should get away from any further discussion of it.

THE WITNESS: I will apologize to the committee for again bringing it into the case.

SENATOR SCOTT: I do not think it should have been brought in at this time, and as far as I am concerned—

ATTORNEY GENERAL McBRIDE: Here is a deliberate slur upon me. You do not want that to happen, do you?

SENATOR YOSKO: May I just make one suggestion. If the witnesses will answer the questions and stick to the answers, we will not get into these difficulties.

SENATOR YOSKO: Mr. McBride, you have already given your situation and your feelings on the matter to the committee. It is regrettable that the winess did bring it up at this time. I do not see that there is any further use of dragging it on. I am perfectly willing to disregard anything that the witness said on the subject.

ATTORNEY GENERAL McBRIDE: I have no doubt you are, but I think when such questions are raised and such insults are given, they ought to be answered before the tribunal in which they are given.

SENATOR SCOTT: You have already given your answer to it, sir.

ATTORNEY GENERAL McBRIDE: I gave it to you, but Judge Bretherick chose to insult me. His motives remain obscure. I shall drop it there.

REPRESENTATIVE BELL: Mr. Chairman, may I request that when the Attorney General desires to testify that he testify as a witness?

CHAIRMAN TOMPKINS: Well, we want to avoid the personalities in this thing. This committee, of its own motion, raised the question of conflict of interest with the Attorney General in connection with certain specified cases, not generally, but in certain specified cases. The attorney General has given his replies. Those hace been made a part of the official record. We will allow the committee's actions and the Attorney General's response thereto to stand at that point and we will rest at that point.

ATTORNEY GENERAL McBRIDE: These cases we are discussing, I think the Committee will agree, I had no participation in at all. The committee raised no question about my participation in these questions.

CHAIRMAN TOMPKINS: We only raised it in those matters where you might have represented some client who had appeared before the Pardons Board, even though you did not represent them before the Pardons Board.

ATTORNEY GENERAL McBRIDE: I think that the credibility and the bias of witnesses are in issue before this committee, too.

CHAIRMAN TOMPKINS: I am sorry the matter has come up, and the Judge has offered his apology, General.

ATTORNEY GENERAL McBRIDE: He did not apologize to me, which he should have. He probably will not, but I will not ask him to.

THE WITNESS: But, he will.

ATTORNEY GENERAL McBRIDE: All right.

THE WITNESS: He will and he does.

ATTORNEY GENERAL McBRIDE: All right, I accept it.

MR. KOHN: Mr. Chairman, I do not think the testimony taken along these lines has any bearing on the functions of this committee or is in interest before the committee, and I respectfully suggest that it be expunged from the record totally once and for all.

SENATOR SCOTT: Mr. Chairman, one of the things this committee was fearful of and discussed in executive session was that we would be re-trying cases all over again, and it appears that we have gotten into that phase of it, and I do hope that we can get away from it. The Attorney General did bring up a situation, and that was the powers of the courts and the powers of the Pardons Board in changing guilty to innocent situations. And I think that is very important as far as the committee is concerned.

THE WITNESS: I have answered that by saying I do not think they have the right. They should not have that right.

BY ATTORNEY GENERAL McBRIDE:

Q Now you have quoted a letter. It is not a letter but is part of the transcript of your charge. It would appear that the district attorney said that yours is the only county in the state which sends representatives before the Board of Pardons.

A Yes.

Q You do not personally know that that is so, do you?

A No sir, and I doubt very much whether it is so.

Q You said that you did not know on what reason the Board based its action in connection with the McSorley case, but you had also said that it was political. Now I should like to clear that difference up. If you did not know what its reason was, on what do you base the statement that it was political?

A Generally on the whole atmosphere of this particular case.

Q Nothing else?

A Nothing else.

Q Now, you have quoted a letter from a Mr. Smith who indicates that he thought there was political feeling against him on the grounds that he had been so successful before Boards of Pardons where the membership was Republican, and that he had been singularly unsuccessful where the Board had been Democratic?

A Yes.

Q You mentioned also that he had communicated with Secretary Finnegan of the Board of Pardons?

A I read his letter.

Q Yes. Now I show you a letter dated August 11, 1955. Is that from the same Mr. Smith.

A That is the same Mr. Smith. I do not know that is the same letter that he referred to.

Q Well, it is a letter directed to us.

A It is a letter directed to James A. Finnegan.

Q Right. And it is signed Charles F. G. Smith. It appears to be the same signature, does it not?

A Yes.

Q It is on the legal stationery of Mr. Smith?

A Yes.

ATTORNEY GENERAL McBRIDE: Now, I would like it to be marked and I accept the Chairman's suggestion as to how exhibits we produce should be marked. Shall we mark them Board of Pardons exhibits, or what?

CHAIRMAN TOMPKINS: It might be better, however, in order to separate these, if these are marked as "P. B.", Pardons Board.

Letter dated August 11, 1955, from Charles F. G. Smith to Board of Pardons—produced and marked for identification as Pardons Board Exhibit No. 6. AJS 2/28/57

BY ATTORNEY GENERAL McBRIDE:

Q I am going to put the whole letter in evidence Judge.

MR. KOHN: May I raise a question of procedure? I have no objection to the letter going in at the proper time, but Judge Bretherick is on cross examination and I see no contact that Judge Bretherick knows anything about that letter, and it is going to go in on his testimoney. I say again, I have no objection to the letter going in, but I think it ought to go in at the proper time.

ATTORNEY GENERAL McBRIDE: I assure the Board that this has to do with the question which Judge Bretherick raised. He relied on a statement by Mr. Smith, indicating that he had been prejudiced by reason of the fact that he was a loyal Republican and this letter indicates quite a different attitude. And I think I'd like to show it to Judge Bretherick and then ask him if he would trust a man who talks out of both sides of his mouth.

MR. KOHN: All right.

(The witness read the letter.)

BY ATTORNEY GENERAL McBRIDE:

Q You have read it, Judge?

A Yes sir.

Q No I'd like to read the second sentence.

SENATOR YOSKO: Mr. McBride, was that letter already read?

ATTORNEY GENERAL McBRIDE: No.

SENATOR YOSKO: Well, I wish you would read it so that we will know why you asked the question.

ATTORNEY GENERAL McBRIDE: The entire letter? I have no objection.

CHAIRMAN TOMPKINS: I think that as inasmuch as the entire letter that Judge Bretherick had was read into the record for what it was worth, this should be done likewise. We have already directed our counsel to have this man appear before the committee.

ATTORNEY GENERAL McBRIDE: Yes. I will read the letter.

"Honorable James A. Finnegan,
Secretary of the Commonwealth,
Capitol Building,
Harrisburg, Pennsylvania.

August 11, 1955.

"Dear Secretary:

"You will recall that shortly after you took office, I presented you with an introductory letter from Mayor Clark. I explained to you at the time that I have presented a considerable number of applications for commutation to the Board of Pardons over the past years. It is a matter of record that I had been successful in about seventy-five per cent of the cases which I presented to former boards.

"To date, I have been consistently refused on about thirteen applications presented to your Board. It occurred to me that if the Board had any misconceptions about my partisan sympathies, it would be well to bring Mayor Clark's letter to their attention.

"I do not mean to intimate that your Board can be influenced politically in matters which involve human life and liberty, but I do feel that it is important to remove any misconceptions that might be an influence in a borderline case. I have re-examined the cases I have presented and quite agree that several of them have been difficult cases. However, there are others which would have undoubtedly been granted by former Boards.

"I am particularly puzzled about the case of Ronald S. Keys, 82956, May Sessions, which was originally presented to the Board by me. In the March Sessions, at which time Mr. Livengood advised me during the hearing that if I would present the case again and include two

recent sentences imposed by the Dauphin County Court on this man, that favorable consideration would be given to commutation of not only the sentence he is serving, but to the two concurrent sentences which are now detainers from Dauphin County.

"I know that it is not the policy of the Board to give reasons for its refusal, but I do feel that some misunderstanding may have developed in this case, possibly because of the change of membership on the Board. If a rehearing is possible in this case, I would appreciate an indication from you to this effect. Also, I would appreciate an opportunity of making the acquaintance of the other members of the Board personally at the next Sessions, as I have always felt a sense of closeness should exist between an attorney and the Board if the attorney is to successfully convey the results of his investigation and of his personal contact with the prisoner. In this way, the Board can come to rely upon the honesty of the attorney as strongly as they can upon the report of the probation officer investigating the case, which is the most that we can ask.

"One matter that should definitely be looked into in the interest of justice is the case of five pardons which were granted last year to the Shattuck family of Shunk, Sullivan County. These five cases were presented by me in June 1954 and full pardon was granted in December with a definite order by your Board that the fines be remitted to those pardoned. These fines have still not been paid by Bradford County, where these people were legally convicted, even though repeated demand has been made upon them. The fines in question are as follows:

"Charles V. Shattuck	$100.00
Mrs. Ruth Rapley Duffield	100.00
Luther Shattuck	100.00
Ralph Shattuck	75.00

"Does your Board have sufficient power directly, or through the Governor, to compel return of these fines or do you recommend that I file a writ of mandamus against Bradford County to carry out the order of the Governor and your Board?

"The Shattuck family represents the center of the Democratic Party in Sullivan County. I believe, therefore, that not only the interest of justice, but of the party, will be served if something is done about the return of these fines."

BY ATTORNEY GENERAL McBRIDE:

Q Now, in the light of that, Judge, writing to you and posing as a man who is deeply sympathetic and loyal to the Republican Party and to Mr. Finnegan, a Democrat, and posing to be interested in the welfare of the Democratic Party, can you really place any reliance upon it?

A The only satisfaction that I can get from that letter is the fact that before the Democratic Pardons Board came into power, he won seventy per cent of his cases, and after the Democratic Pardons Board came into power, he won none of his cases.

Q Now, is that good or bad?

A If he attempts to assume two roles, please do not hold me reliable for that.

Q I am not. Now, let me ask you this: Do you know that he won seventy or seventy-five per cent of his cases?

A No sir.

Q You do not know whether he is telling the truth or not.

A I do not know whether or not be is telling the truth in this letter either.

Q No. He says seventy-five per cent here and he said seventy to you.

A I thought he said seventy. I may be wrong.

Q No, I think you are right. I think he said seventy.

MR. KOHN: Is there an answer to that letter? I think they both ought to go in the record at the same time.

ATTORNEY GENERAL McBRIDE: There was a statement by Mr. Finnegan to him which—

MR. KOHN: Was there an answer to that letter?

ATTORNEY GENERAL McBRIDE: Was there a written answer?

MR. FINNEGAN: There was not.

MR. KOHN: All right.

ATTORNEY GENERAL McBRIDE: Mr. Finnegan will testify in no uncertain terms—

MR. KOHN: All right.

ATTORNEY GENERAL McBRIDE: Mr. Finnegan will tell it.

MR. KOHN: Now just a minute. There is only one question that I asked you. Was there a written answer to that letter?

ATTORNEY GENERAL McBRIDE: No. There was a delightful vocal answer.

MR. KOHN: I am not asking your opinion as to what you think of it, Mr. McBride. I am asking you whether or not there was an answer to that letter.

ATTORNEY GENERAL McBRIDE. No. We will have Mr. Finnegan testify.

MR. KOHN: Well, suppose he does that instead of the Attorney General.

BY ATTORNEY GENERAL McBRIDE:

Q Now Judge, you testified as to the Ballem case, and you said the Legislature ought to have its head examined for passing this Act of 1956. Whether they should or not, that is the law of the Commonwealth?

A Yes.

Q And you said that the District Attorney reported that his attention had been called to that law by me, as Attorney General. That is what he reported?

A That is my recollection, yes, sir.

Q Did you mean to suggest that there was anything wrong about the Attorney General calling the attention of both of the parties to the fact that the law had been amended in 1956?

A No, I was not critical of what the Attorney General did.

Q Now, then a petition was filed asking that the court determine whether he was insane now within the meaning of that statute?

A Whether his condition had so disintegrated—whether his mental condition had so disintegrated that he ought now to be examined by further commission to determine whether he should be electrocuted.

MR. KOHN. I object.

THE WITNESS: I did not criticize the Pardons Board for anything it did in that case.

MR. KOHN: May it please the Committee, I object to the Attorney General questioning along these lines

because he was definitely involved in the Ballem case. He heard it last time. He is on the Pardons Board.

ATTORNEY GENERAL McBRIDE: I can get involved in more things. I sat there and heard the Ballem case, and now I cannot ask a question even though you asked it.

BY ATTORNEY GENERAL McBRIDE:

Q Did you ever appear before the Board of Pardons?

MR. KOHN: Just a minute.

CHAIRMAN TOMPKINS: I am seriously concerned about whether or not we ought to openly discuss cases which are pending before the Pardons Board.

THE WITNESS: There has been no action by the Pardons Board in this matter.

ATTORNEY GENERAL McBRIDE: I am not going to discuss that any further, but Mr. Kohn talked about what was pending in Delaware County and the fact that three of his brother Judges voted one way and Judge Bretherick voted the other way.

MR. KOHN: Mr. McBride, I did not ask a question on the Ballem case.

ATTORNEY GENERAL McBRIDE: You are right on that; the members of the Board did.

REPRESENTATIVE BELL: Mr. Chairman, I would like to request the Chair to issue a ruling that there will be no discussion on the Ballem case, because it is still in the hands of the Pardons Board and has not been decided.

ATTORNEY GENERAL McBRIDE: I have no intention to discuss the Ballem case, as it applies to the Board of Pardons.

SENATOR SCOTT: What was your point? What were you attempting to bring out?

ATTORNEY GENERAL McBRIDE: My point with respect to Judge Bretherick is this: He said the law was wrong. He stated that publicly. He stated here that he conceded that the Legislature should have its head examined for passing that law and that he disagreed with his brother judges. I want to ask Judge Bretherick if it is his view that a man, even if he is insane now, after conviction, may legally be executed.

MR. KOHN: Just a minute. I object to that question for the simple fact that the Attorney General appeared before the Capitol Correspondents recently and gave his opinion on how he felt about capitol punishment. It is the duty of the judge to carry out the laws just as much as it is the duty of the district attorney to uphold the law as constituted. I think we can take for granted that a person in Judge Bretherick's position, having been elected by the people of his county, will carry out his duties just as much as the Attorney General says he is going to carry them out here. And I think it is an offense to have to ask the Judge what he thinks about it because it has no significance in regard to our relation to the questioning of the actions of the Pardons Board.

BY ATTORNEY GENERAL McBRIDE:

Q You are interseted in legislation. You said so. Now the Legislature—

CHAIRMAN TOMPKINS: Just a moment now. I want to find out something. Am I right when I state that only last week the Ballem case was listed on the calendar of the Pardons Board?

ATTORNEY GENERAL McBRIDE: Certainly, you are right.

CHAIRMAN TOMPKINS: Am I right that you, as a member of that Board, raised the issue of this law of 1956 and stated that you felt that a commission should be appointed to determine that issue?

ATTORNEY GENERAL McBRIDE: No, you are wrong.

CHAIRMAN TOMPKINS: Well, I stand corrected, then.

ATTORNEY GENERAL McBRIDE: I did point out to both counsels what both had apparently overlooked, and the lawyer representing the applicant stated that in any event he was going to petition the Court of Common Pleas of Delaware County for a stay and for a commission. And I pointed out this Act of 1956. Apparently neither of them had heard about it, so I said, here is the Act of 1956. Then the district attorney asked us if we would let him have a medical examination, and we all agreed that certainly he may have one without the slightest question. The next thing we knew, there was a stay granted.

Now, in answer to questions from committee members, Judge Bretherick has stated that he voted against hearing this petition; he voted against even giving the man a chance to prove that he was innocent.

I want to ask Judge Bretherick, is his position that he should be executed according to his testimony even if he is insane.

MR. KOHN: I object to that on the grounds that the case is pending.

ATTORNEY GENERAL McBRIDE: Well, that is the fundamental question.

CHAIRMAN TOMPKINS: Well, that does not bear upon the action of the Pardons Board.

THE WITNESS: Certainly it does not.

ATTORNEY GENERAL McBRIDE: Therefore, it should be admissible.

CHAIRMAN TOMPKINS: We are not going to go into matters which do not relate to questions before this committee. Furthermore, this case is still pending before the Pardons Board. Since it has been brought out in the open, we will permit the inquiry of this particular case. This committee will not entertain any further questions from either side in connection with any other cases now pending before the Pardons Board.

ATTORNEY GENERAL McBRIDE: Well then, I cannot ask Judge Bretherick whether or not he said this man should be in the cemetery. I want to ask him whether or not he thinks he ought to be in a cemetery even if he is insane.

REPRESENTATIVE BELL: I object to this, Mr. Chairman.

CHAIRMAN TOMPKINS: Wait a minute. I said other than the case that has already been brought up. We will finish on this case, but I will have no further cases that are pending before the Pardons Board. I do not think it is fair to the people involved. I do not think it is fair to the Pardons Board that their judgment should be influenced by anything said by this committee or any of the witnesses which appear before it.

REPRESENTATIVE BELL: Mr. Chairman, may I add this as an additional reason: This is a murder case, and because of the actions before this committee, this could readily afford another reason for appeal to the

United States Supreme Court. I would like to call that to the attention of the participants here.

MR. KOHN: That is what happened in the Lehman case in Blair County.

REPRESENTATIVE LOPRESTI: Mr. Chairman, I think we are way off base. We are not discussing the actions of the Pardons Board at this particular moment. We are attempting to establish the attitued of Judge Bretherick, who is a witness, of course, as to certain Acts of Assembly as to whether or not he believes they should be in force or not. I think that is the point. We are not discussing the Ballem case at all.

CHAIRMAN TOMPKINS: With respect to the matter that has been touched upon heretofore, we will finish with this one, but we will not discuss matters that have no relation to the Pardons Board hereafter.

BY ATTORNEY GENERAL McBRIDE:

Q All right. Judge, you have said that Ballem should be in the cemetery. Do you mean that he should be executed even if he is insane and has become insane since his conviction?

A Most certainly not.

Q Now Judge, when you were talking to the Grand Jury you told the Grand Jury that you had no intention of giving advice to the Board of Pardons or answering their communications?

A That is right.

Q Why did you deliberately say to them that you were not going to obey the law?

A Because I was so incensed by the action of the Pardons Board in this case and the Caserta case—

Q Do you think that anger justifies a man violating the law?

A . . . and because, further, I did not think it would do any good because the Pardons Board apparently ignored the letters that had been written to them in this Caserta matter. You will have to ask Judge Toal about that. I do not know what he wrote or what he said.

Q When you got a letter from Mr. Hean, March 23, 1956, that letter referred you to a positive command of the Assembly, did it not?

A It is not a positive command. As I recall it, there is a requirement of the law that the district attorneys, judges, and so forth—

Q Well, let me read it to you and see whether it is not a positive command: "Whenever the Board of Pardons shall request information and advice relative to any application for pardon or commutation of sentence from a judge who tried and sentenced the applicant, or the district attorney or assistant district attorney who prosecuted him or her, or from the district attorney in office at the date of the application, it shall be the duty of such judge, district attorney or assistant district attorney promptly to comply with such request."

Do you deny that that is a positive command?

A Yes.

Q Now, you said in any event, you were not going to live up to whether or not it was a positive command. And you said you would not live up to it until the Board of Pardons was reconsituted?

A Let me say that the letter that goes out from the Department of Justice, the Board of Pardons, usually says this at the end, "An answer to this letter on or before the first day of next month will help the Board in assembling the folder for hearing." And often times we do not get them until two days after or one day before. So it is not possible to answer the question in that time in many cases.

Q You do not get them until one day before the hearing?

A Until the day before, but some days we do not get them until after the hearing. There are not many cases like that.

Q Well, the lateness of your getting it was not the reason you did not answer it, was it?

A No.

Q It was a calculated policy on your part that you would not answer it because you did not think they pay attention to what you recommended?

A That is right.

Q And you think that that is a sufficient excuse for not obeying this law?

A Yes, I do.

Q All right. Now, I want to ask you a few questions about some cases that have come up in which you were the trail judge and did make recommendations. The case of Robert Lee Teal, 73 on the list for February 1955, the charge being murder in the second degree. You opposed that clemency?

A Yes.

Q The district attorney opposed it, and the Board of Pardons, by a vote of four to nothing, refused clemency?

A I assume so. I do not know that.

Q And that was not a political decision, was it?

A No. When was that, 1952?

Q That was on the list for February sessions, 1955. The effective date of the sentence was back in 1950, but the application was heard at the February 1955 sessions of the Board of Pardons.

MR. KOHN: How much did the man serve? I think you ought to tell us that to put it in the record.

ATTORNEY GENERAL McBRIDE: He was given a sentence of six to twelve—

MR. KOHN: Years?

ATTORNEY GENERAL McBRIDE: Six to twelve years, and this was four and a half years after the effective date of the sentence.

BY ATTORNEY GENERAL McBRIDE:

Q Now, you thought he should not get out and so did the Board?

A That is right.

Q They agreed with you. Now, in the March 1955 sessions, No. 58, John J. Nash—

A What is the name?

Q John J. Nash, N-A-S-H, the charge was attempted rape. You gave him eleven months to three years, the effective date of the sentence being 6/22/54. You notified the Board that you had no objection to the commutation of his maximum sentence. The district attorney notified the Board that you had no objection to the commutation of his sentence, and the Board unanimoustly voted against clemency. Was that a political decision?

A No.

Q In the same session of the Board, Charles Thornton, 61 on the list, was charged with burglary and larceny. You gave him three and a half to ten years and the ef-

fective date of the sentence was the 15th of February 1954. You notified the Board that maybe he has seen the light.

A Yes.

Q The district attorney opposed.

A Yes.

Q The Board refused clemency by a vote of four to nothing. Was that a political decision?

A Apparently not.

MR. KOHN: Mr. Chairman, I think we can go through the voluminous files on this and the same answers will be given by Judge Bretherick on these particular cases. We are not here to judge each particular case on its merits.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, the statement has been made that the Board of Pardons ignored Judge Bretherick's recommendations.

MR. KOHN: In this particular instance, and he gave his reason.

ATTORNEY GENERAL McBRIDE: Well, he said that they consistenly ignored his recommendations. Now that is a very easy statement to make, but maybe the records do not back it up.

REPRESENTATIVE BELL: Mr. Chairman, could we have the record show whether this February and January, 1955 Board was the same which existed in January 1956?

ATTORNEY GENERAL McBRIDE: What?

REPRESENTATIVE BELL: Who were the members of the Board in January 1955?

ATTORNEY GENERAL McBRIDE: The members of the Board were Mr. Furman, Mr. Finnegan, Miss Blatt and Mr. Cohen.

REPRESENTATIVE BELL: Are you sure? Wasn't Mr. Livengood a member of the Board in 1955?

ATTORNEY GENERAL McBRIDE: Livengood? Livengood was still on. That is right.

REPRESENTATIVE BELL: Therefore, Mr. Chairman, I object to this as being immaterial. It was not the same Board.

ATTORNEY GENERAL McBRIDE: Well, what does it matter which Board it is?

MR. KOHN: He has already said that. Both Boards were wrong.

ATTORNEY GENERAL McBRIDE: I know but he had said that they constantly disregarded his recommendations, and these cases will show that sometimes they did and sometimes they did not.

MR. KOHN: Mr. Chairman, I have Judge Toal here, and I understand that you want to close at 2:30.

CHAIRMAN TOMPKINS: Now, may I ask this? You have here before you a record of cases exclusively applying to Delaware County?

ATTORNEY GENERAL McBRIDE: Yes.

CHAIRMAN TOMPKINS: And the positions which the district attorney and the judges took and then the final action of the Board?

ATTORNEY GENERAL McBRIDE: Yes.

CHAIRMAN TOMPKINS: To shorten this matter, why could that not be entered as an exhibit and let the committee go through it and evaluate it?

ATTORNEY GENERAL McBRIDE: Maybe it could. But since the statement of Judge Bretherick was made for all to hear, I wanted my countervailing evidence to be made for all to hear. But however, I will put in evidence and we can argue this later.

CHAIRMAN TOMPKINS: We know what your position is on that subject.

ATTORNEY GENERAL McBRIDE: Sure.

Record of Delaware County Cases, consisting of 5 pages—produced, marked for identification and received in evidence as P.B. Exhibit No. 7. AJP 2/28/57

Letter dated August 3, 1956 from R. R. Start, to Board of Pardons—produced, marked for identification and received as evidence P.B. Exhibit No. 8. 2/28/57

BY ATTORNEY GENERAL McBRIDE:

Q Now you mentioned the Gorodetsky case, Judge, in which you took the position that this being a dope case there should be no clemency.

A Yes.

Q The district attorney, however, took a somewhat different position, did he not? I will show you his letter.

A Yes, he does. I do not agree with him.

Q But you do not say he was politically inspired because he disagreed with you.

Q Well, it would not be fair to say that the Board of Pardons was politically inspired—

A I do not say that the Board of Pardons was politically inspired by that. I do not in any way say the Board of Pardons was politically inspired.

Q You do not say that they granted any leniency to this dope offender?

A I do not think they did.

Q No. As a matter of fact, your belief and mine concur, and he was turned down.

MR. KOHN: What was the date of that letter?

ATTORNEY GENERAL McBRIDE: The date of the letter was September 21, 1956.

MR. KOHN: That was after the March Grand Jury and Judge Bretherick's statements to the Press. Is that right?

ATTORNEY GENERAL McBRIDE: Well, it was when the case came up. You only get letters when cases come up.

MR. KOHN: I understand, but you will admit that the statements of Judge Bretherick as they appeared in the Press were in March and June of 1956, and this was September when he openly criticized the Board. Is that right?

ATTORNEY GENERAL McBRIDE: Well, I see no connection between the two, but I certainly admit that September is later than March.

MR. KOHN: Thank you, sir.

ATTORNEY GENERAL McBRIDE: If that is what you want me to admit, I admit it.

MR. KOHN: That is right.

CHAIRMAN TOMPKINS: Now, how long are you going to take with Judge Toal?

MR. KOHN: I do not think it should take more than ten minutes. I am not going over the whole field. I am just going into one thing.

CHAIRMAN TOMPKINS: Let us not repeat what has already been covered by the other witness.

Mr. KOHN: All right.

WILLIAM R. TOAL, a witness, being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q What is your full name, sir?

A William R. Toal.

Q And what is your official position in the County of Delaware?

A Judge of the Court of Common Pleas of Delaware County.

Q How long have you been Judge of the Court of Common Pleas?

A Going on ten years.

Q Are you up for re-election this time?

A That is correct.

Q You have been endorsed by both the Democratic and Republican Parties?

A That is what they say.

Q Judge Toal, you tried the McSorley cases, did you not?

A Yes, I did.

Q And on the first application for pardon on this case, did you receive notification thereof?

A I think I did, yes.

Q And that application was for a pardon, was it not?

A No, I think it was for commutation.

Q It was for commutation? You say "pardon" in your letter. Did you reply to the Board of Pardons' inquiry in regard to this matter?

A Yes, I did.

Q In your reply what did you say to them as to why no consideration should be given to the application at the time it was to be heard?

A Well, I wrote a letter on September 13, 1955. I appear to have in my hand a photostatic copy of that letter addressed to the Board of Pardons. Shall I read it?

Q I do not think you need—

ATTORNEY GENERAL McBRIDE: Mr. Chairman, isn't this a re-hash of the case?

MR. KOHN: Mr. McBride, do you know what I am going to ask him?

ATTORNEY GENERAL McBRIDE: No, but if you don't mind, I am speaking to the Chair. Do you?

MR. KOHN: No, I certainly do not. I am sorry.

CHAIRMAN TOMPKINS: Well, if it is a duplication of what we have already had, then, of course, we don't want it again.

THE WITNESS: I do not think this is a duplication.

CHAIRMAN TOMPKINS: If it is not a duplication of what we already had, proceed.

THE WITNESS: Because this letter has not been before the Board.

CHAIRMAN TOMPKINS: Very well.

ATTORNEY GENERAL McBRIDE: Before this committee; not the Board of Pardons.

THE WITNESS: Well, the committee.

CHAIRMAN TOMPKINS: Very well.

Will you get that marked up as an exhibit so that we do not get ourselves fouled up along the way in the numbers?

Two-page letter dated September 13, 1955, from Judge Toal to Board of Pardons—produced, marked for identification and received in evidence as Exhibit No. 9. AJP 2/28/57

BY MR. KOHN:

Q Now what I was trying to bring out—and I will say it very plainly—is that your statement to the Board of Pardons was that this application was premature because the case was pending before the Supreme Court of Pennsylvania.

A That is correct.

Q Therefore, no consideration should be given at this time to that until such time as the Supreme Court rules. Is that right?

A That is right.

Q You received notice of the hearing on this particular application?

A I think I did.

Q And you sent the letter?

A That is right.

Q Now, subsequently, when this case was up for a re-hearing, did you ever receive notice thereof?

A No, I did not.

Q So that when the case came up on the merits, you received no notification from the Board of Pardons of the case being listed?

A That is correct.

Q You stated in your letter that I read as of September 13, 1955, "It would appear that to make an application to your Honorable Board for pardons in these cases before any jail sentence or portion thereof has been served, and also before the Supreme Court has had an opportunity to decide on these cases is highly irregular." Is that your position?

A That is right.

Q And you state now that you received no notice of the hearing on the merits of these cases at the time they were scheduled for a hearing?

A I did not, to my recollection.

Q There is nothing in the record. I will certify to that; that you never received such notice.

ATTORNEY GENERAL McBRIDE: May I see that Exhibit?

(Exhibit handed to Attorney General McBride,)

BY MR. KOHN:

Q Now you have heard testimony here. How do you feel, your Honor, in regard to the functions of the Pardons Board? Do you have any suggestions to offer?

A Well, I listened attentively to Judge Bretherick's testimony in chief and I agree with him that it would be very much better for the public interests if the Pardons Board, as it is now constituted, were abolished by an amendment to the Constitution, and taken entirely out of any possible charge of political graft.

I know that there are other States of the Union—I cannot name them exactly at this time—where the pardoning power is entirely disassociated from politics, with the exception that the Governor, having the absolute right, would have to be on one side or the other, either Republican or Democrat. But it seems to me the set-up in Pennsylvania when an administration changes the entire Pardons Board, with the exception of the holdovers, such as the Auditor General and the Secretary of Internal Affairs which carry over—a kind of lame duck or something—for a certain little while. But the Board changes, and the members have to be of one political persuasion.

I am also inclined to agree with Judge Bretherick that if you look over the past twenty-five years you could find something to complain about on both sides, whether or not it has been a Republican administration. Some of the things that have been done by the Pardons Board if they were looked into, might then be subject to question, at least from the public aspect. Also, when you look at some of the things that were done under a Democratic administration, they also could be looked into. I say entirely from a public aspect because, after all, I feel that a public body like a Pardons Board has to be responsive to some extent to public opinion, to the feelings of the public whom they represent. Now, I think that is about as far as I would like to go at this time.

Q I do not want to repeat anything, but you heard the reasons given by the Board of Pardons for the commutation of the sentences of McSorley and others, and they state that at the time of the trail the feelings of the citizens of Delaware County were such that the court and the jury were undoubtedly influenced by the attitude of the general public. What would you like to say on that?

A Well, in the McSorley case, I did not sit as trail judge. The Supreme Court remitted the case back to Delaware County for the purpose of having a hearing to decide whether or not a new trail should be granted on the ground of after-discovered evidence. I sat in that hearing. We had an extended hearing. Mr. Hughes was the assistant district attorney; Mr. Kraft and his associates were counsel for the defendents. We had a full hearing. The testimony was taken and transcribed and a written opinion was filed by the lower court, written by myself and approved by the other judges. In that hearing, of course, some of the testimony and some of the factual situations that came out in the previous trial had to be considered to see whether or not there was after-discovered evidence, because if it is a reiteration of the testimony that came before the court and jury in the original trial it would not be, as we all have to agree, after-discovered evidence. So that I am somewhat familiar with the original trial, having consulted with Judge Irwin and the other judges, and I am very familiar with the hearing which was conducted by me in the hearing for the after-discovered evidence.

I would say in my judgement that the court was not in the slightest degree influenced by anything, any bias or any feeling of the public in Delaware County. They based the entire case on the original sentence of two years, on the factual situations proven before a court and jury, and there was no influence at all or bias from the public.

Q The point I am getting at, Judge Toal, is that evidently, the Pardons Board found this as a matter of fact?

A Well, there was no fact in that.

Q That is what I would like to ask you.

A Well, as far as I know in that case, from my contact with it, there was no fact which would indicate that the court was in the slightest degree influenced by any adverse public opinion.

Q You could not say as to the jury?

A No, absolutely not.

Q What do you mean? I do not quite follow you? They also say that the jury was influenced. Can you tell us anything about that?

A That the jury was influenced? Well, of course, in this kind of cases, unlike a first degree murder case, the jury would not be locked up over night and, naturally, there might be something in the newspapers of the current trial. Whether or not twelve members of a jury would be influenced if they read something in the papers from day to day, I cannot tell you. That is our trial procedure.

Q Judge, the point I am getting at is that the Pardons Board's findings were made from the records, supposedly?

A There is nothing in the record, either in the lower court or in the findings on the record before the Appellate Court, which would indicate to the slightest degree that the jury was influenced by public opinion.

Q They go on further and give an additional reason. As this applicant and his accomplices were the only persons arrested, they bore the resentment of the community. Is there anything in the record to justify such a finding of fact by the Pardons Board?

A I do not think there is.

MR. KOHN: That is all I have.

BY CHAIRMAN TOMPKINS:

Q Judge Toal, I just want, for the purpose of the record, to bring out certain information based upon one of your statements.

I think the Constitution provides that the Pardons Board consist of four members, they being the Lieutenant Governer, the Secretary of Internal Affairs, and two appointees of the Governor who are Cabinet Officers; the Secretary of the Commonwealth and the Attorney General.

Not only this Board but the constitutional provision itself creates a Board that by its very nature could have the color of a political board, could it not?

A That is correct, in my opinion.

Q Because of that you feel that the color should be changed?

A I think it should.

BY MR. KOHN:

Q Judge Toal, you will not limit your remarks to just this Pardons Board, will you?

Please give us your remarks over a period of years with your experience as to what you think?

A Well, Mr. Kohn, I have no axe to grind coming up before this committee at all. I am under subpoena. I happened to be the judge who sat in the Caserta case. I wrote letters protesting any commutation for Caserta. I happened to be the judge who sat in the final hearing in the McSorley case. I also wrote letters on that, and in my humble judgment, the letters were ignored. Now I probably made some statements to that effect somewhere, not necessarily to the newspapers, but probably that is the reason I am subpoenaed here. And I have no axe to grind one way or the other.

CHAIRMAN TOMPKINS: Senator Fleming, do you have any questions?

BY SENATOR FLEMING:

Q Only this, Judge: You agree, I understand, with

Judge Bretherick, that there definitely should be a change in the make-up of the Pardons Board?

A I certainly whole-heartedly agree with him. I was glad to hear him testify in the manner he did with respect to that because there could be criticism, as I say, over the years when it was constituted from one political party's standpoint just the same as there could be criticism when it was constituted from a Democratic standpoint.

Q Would you agree with him, sir, that they do not have enough time to fully consider the pardons because of these extra duties in their regular jobs?

A Yes. It was just last week I heard a comment at the lunch table when we were sitting there with some lawyers that the Pardons Board gave five to ten minutes consideration for each case in executive session after they heard them, and that the report, as I was informed, was written out by the Secretary and submitted to the Board for their adoption. It certainly struck me as very peculiar.

Let us take a first degree murder case where a defendent is serving a life sentence. Perhaps it took two or three weeks to try that man. Perhaps the case was taken to the Supreme Court and the Supreme Court, refusing a new trial, had to write a detailed written opinion, and that became a matter of record in the law books. Then they come up here to the Pardons Board, and the attorney for the defendent makes an argument for about fifteen minutes. He gives the factual background. He puts his best foot forward for his client. The assistant district attorney or the district attorney likewise gets up and rebuts that for fifteen minutes. And then this group of five persons, upon whom devolves the heavy responsibility of deciding the liberty of a human being, either that he does not get his liberty or does get it, they hear that in that half hour and then they go out with about fifteen or twenty or thirty other cases, and they have to dispose of it in ten minutes. I would say that that is one of the—well, it is unbelievable that that exists in Pennsylvania.

CHAIRMAN TOMPKINS: Just to correct maybe a wrong impression you have, I think the statement has been made here that the average time which is allotted for the argument of a case before the Board is around ten minutes. I do not believe we have anything in the records as to the length of time that the Board considers these cases after the arguments are had.

THE WITNESS: Well, all right. Let's take that. If the average time is ten minutes, that would mean five minutes on each side. Now that just sounds ridiculous, when considering such grave questions as to the liberty of a human being. and in some instances, even his life.

BY REPRESENTATIVE BELL:

Q Judge Toal, last week I timed some hearings before the Board of Pardons. What would your reaction be to a hearing in front of the Board of Pardons that lasted for five minutes, including both sides?

A Well, I think my opinion would be even more drastic than that which I have already stated.

REPRESENTATIVE BELL: I wish to state for the record that there were hearings which took five minutes last week.

SENATOR FLEMING: Mr. Chairman, I certainly, for the record, want to bring this out. I have no criticism for the present Board of Pardons as such. My question, since I seem to have brought up the time allowed, is for the purpose of trying to find out whether or not jurists agree that ten minutes is enough time to permit it. I am thoroughly in agreement with the fact that they cannot allow them more than ten minutes because they have all their other duties.

THE WITNESS: I understood they had seventy cases recently to decide in one session. Now five human beings cannot do that and give adequate and proper and conscientious treatment to those seventy cases and get away with it and do a proper job of it.

BY MR. KOHN:

Q Judge Toal, suppose seventy cases were scattered over a day and a half and no notes are available to the members of the Pardons Board as to what counsel said or what the actual facts were, except what is set forth in the application and accompanying papers which were prepared by the Secretary, do you think they can properly decide immediately after they leave the hearing in the morning, having heard maybe thirty cases, and conscientiously and correctly and sincerely vote on the cases immediately on each one they have heard that morning?

A I think it humanly impossible to do that.

Q That has been done, I might say, not just by this Board but by almost all the Boards that I know of.

A The system is wrong.

BY REPRESENTIVE BELL:

Q I have another question, Judge Toal: Again going back to this riot case with McSorley, DiAntonio, and the others, again I call to your attention one of the findings of the Board of Pardons: "At the time of trial, the feeling of the citizens of Delaware County was such that the Court and jury were undoubtedly influenced by the attitude of the general public." Are you familiar with defense counsel, now Judge Kraft?

A I have known Judge Kraft for thirty-five years.

Q If this were the case, would Judge Kraft have taken proper legal steps for change of venue or otherwise?

A He certainly would have.

Q And is he an ardent advocate—

A Well, he is one of the finest trial lawyers that I have known in my career at the Bar.

Q To your knowledge did Judge Kraft ever claim that there was such a situation going on?

A He never raised the issue to my knowledge.

Q And if there had been, would Judge Kraft have been the type of man who would have raised it?

A Well, looking back on the case, he did everything he could to save his clients from jail, and I think he would have taken the further step of asking for a change of venue if there had been any condition in Delaware County that would suggest to his mind that those defendants could not get a fair trial in that county.

BY SENATOR SCOTT:

Q Judge Toal, after a jury has deemed the guilt of an individual, do you feel that a Pardons Board, either as the existing Pardons Board duly constituted or a

Pardons Board of the type that you would like to see put into practice, should have the jurisdiction or the right to change the thought that there was guilt or there was not any guilt?

A I am of this opinion, that as the courts are constituted in Pennsylvania it would certainly be a very rare occasion that the lower court or the Appellate Court would take the opportunity to set aside a case after it has once been adjudiciated by a court and jury on a basis of innocence alone.

There are cases where the Supreme Court may in itself, if the question is raised for lack of evidence on a demurrer of the evidence in the lower court and then is taken up, where that particular question is raised in the court itself by its, might I say, original jurisdiction —or I guess you could go back to Kings Bench?

ATTORNEY GENERAL McBRIDE: Yes.

THE WITNESS: And they could go back and search that record; and if they came to the consideration that there was not sufficient evidence to justify the verdict of the court and jury, they could set it aside; not set it back for a new trial, but they could set it aside.

I can give you an example of that in the case that happened twenty or twenty-five years ago. It was a case of involuntary manslaughter which happened on West Chester Pike and went to Superior Court. The defendant was convicted; it went up to Superior Court. The Superior Court said there was not sufficient evidence to convict the defendant of involuntary manslaughter, and they discharged him. You remember that case?

ATTORNEY GENERAL McBRIDE: The Hyman case?

THE WITNESS: That is correct, the Hyman case. Now the court does have that jurisdiction. They can scan the record and they can say "not sufficient evidence," and they can discharge. There is no doubt about that. The lower court has the inherent right to do that and it may never get to the Appellate Court.

BY SENATOR SCOTT:

Q My question was, sir, should a Pardons Board have the same right?

A I would say that it would be a very poor system of jurisprudence that did not somewhere in its scheme have what is known as mercy. There is a possibility that when a man goes to jail that he rehabilitates himself. After he has spent a sufficient length of time in jail he has grown up, as we say, so that he could take his place in society. I would say that a Pardons Board has the right in certain specific cases—if they are convinced they have a right—to grant mercy to a defendant and release him or commute his minimum sentence; I would say that. That is inherent in sovereignty.

I would say there have been cases in the United States where the Governor artibrarily, we might say, of some state, would commute a sentence and he might be criticized to high heaven. They would kick him out at the next election. Public opinion goes against him and kicks him out. There is an inherent right of sovereign mercy. I guess that is about the best way I could put it. The King can grant a pardon and the Governor of Pennsylvania can grant a pardon, as we all know, on the advice of the Pardons Board. However, what we have had before us today are specific cases. We had the McSorley case, with which Judge Bretherick disagreed wholeheartedly. I disagree wholeheartedly because I do not think that the Pardons Board did a proper action when it released these people who were convicted in open court by a fair trial. They had their day in court. They took it to the higher court; and after they were convicted and sentenced by Judge Irvin to two years, a Pardons Board, on this kind of a statement in the report made up by the secretary, commuted it to six months; not four months, I think it was six months. They took eighteen months away from that sentence.

BY CHAIRMAN TOMPKINS:

Q Judge, we discussed a color of politics that is inherent in the Pardons Board in our constitutional provision. And another matter came out in the testimony yesterday to the effect that the Pardons Board has the power to make and change its rules of procedure at will. Do you think that is a proper power for the Pardons Board to have?

A Well, that is a matter of opinion. If the Legislature tried to put too many strictures and placed them in a straight jacket as to procedure, and if they tried to do that after a constitutional amendment—and it would have to be done by constitutional amendment before you could do anything, as we all know—it will take quite a number of years to do that. It would have to go to the Legislature first and then be passed on by two Legislatures, I think, and then by a vote of the people. If the Legislature saw to it that the thing which started on its way for a constitutional amendment had set up a proper kind of Pardons Board, dis-associated entirely from politics, then it would not hurt to have that Board make its rules of court, might we say, in its procedure.

Q What I am getting at is this: Should the Pardons Board or any other governmental agency have the power to make rules at will? What I am getting at is should we not have a time element after the enunciation of a rule before it becomes effective?

A I believe in government by law and not government by edict or by man. And if the Pardons Board can willy-nilly change its rules over night without notice to the public or to the attorneys who are involved, I would say it is very wrong. There should be a certain set routine written out ahead of time so that everybody could read it and then know what they were doing. That is the point, is it not?

Q The point is whether or not they could change the rules on the spot or whether they would have to be compelled to make a change of rules to make it effective some date thirty, sixty or ninety days from the date of its adoption.

A I think you are right on that, I agree.

BY SENATOR YOSKO:

Q I hope this isn't a repetition: What is your opinion of the functions of a Pardons Board?

A What should be the functions of the Pardons Board?

Q Yes?

A The functions of a Pardons Board should be to hear cases where defendants have been convicted. I mean by conviction pleas of guilty also and sentences to jail for the purpose of ascertaining whether or not at the time of the cases presented before the Pardons Board that particular defendant's sentence should be commuted, or

if he has already been released from jail and paid his debt to society, whether or not be should be pardoned. Now in order to do that properly there are so many facets to it that you would write an essay on it.

Q That will be my next question: What factors do you think the Board of Pardons should take into consideration in arriving at a decision as to whether we should commute a sentence to parole the defendant or decline to commute the sentence for the defendant?

A I think that the Pardons Board should be required to read the entire record of the case in the lower court word for word and familiarize himself with it first of all.

I think that having done that they should investigate the prison record and the conduct of the particular individual in the penal institution. Having done that, they should investigate whether or not if he is released into society he can rehabilitate himself in society without harm to society, whether or not he can become privately employed. I could go on and on with all these various things, but it takes into consideration a wide quasi-judicial discretion.

Q All right, Judge, you were not here when the Secretary of the Board testified. He advised this committee of various records that are filed with the Pardons Board in connection with each case. And if my memory serves me correctly, they do not review the testimony that was taken at the trial because in some big cases where they plead guilty there is no testimony.

A Yes, there is, in Delaware County.

Q That probably isn't true in every county. I don't know.

MR. KOHN: Yes, it is.

BY SENATOR YOSKO:

Q But the five or ten minutes that are taken by the attorney I think are devoted to acquainting the Board with the facts in the case. In addition to that, as I understand it, there is a report from the warden of the jail that indicates his behavior and his conduct and that sort of thing. And there is an investigation made, I understand, by the Parole Board and they go into the community.

A I do not think that is done for the Pardons Board. It is done for the Parole Board, is it not?

Q Well, I think it is done here, too. At least we were told it was supposed to be a confidential report.

CHAIRMAN TOMPKINS: I think, Senator, to straighten you out, the Pardons Board, in its operations, makes the Parole Board an arm to use for investigation purposes.

BY SENATOR YOSKO:

Q But there are a whole set of records that are filed with the Board, which I understand the Board reviews and takes into consideration in arriving at a final decision.

Let us assume in the case of McSorley that all of the reports were favorable, and the Board was satisfied and realized that they committed a wrong, and they served a certain length of time in jail with no previous record, and all the factors favored the applicants. Do you not think it is fair then that they should act favorably on that application?

A I would say in answer to that question that generally you are right. Specifically, in the McSorley case, I cannot agree with the Board because that was an application filed before the Board of Pardons even before the Appellate Court had handed down its decision as to whether or not it was going to affirm a lower court or not. I never got a notice. We have no notice of a hearing on the merits.

Q But aside from the McSorley case generally you would say—

A Generally, I would say that. If I said otherwise, I would be charging every Pardon Board that ever existed with error, and I would not want to do that.

Q All right. There is one thing that we do not have on the record yet so far as these two cases are concerned. The McSorley case, and those that were sentenced with him, five of them, and the other case on gambling—I propose to suggest to the chairman that we again call Mr. Hean and let him spread on the record just what information is on file to determine whether the reports are favorable or unfavorable, so that we can arrive at some conclusions of our own.

Judge, just one more question and then I am finished. You talked about a political board because some of them are elected and some are appointed, and there was a charge made that politics influenced the position of the board in some cases. Do you personally, based on your long experience, long tenure in office as a judge, know of any political considerations or do you know of any political influence that was exerted upon any board at any time which finally influenced the board to arrive at a decision for or against an applicant who came up for commutation or pardon?

A I do not.

SENATOR YOSKO: Thank you.

BY REPRESENTATIVE LOPRESTI:

Q Judge, did I understand you when you were discussing the Board to say that the Board should be responsive to public opinion?

A No, I did not say that at all and did not mean to say it. If you got that impression you are wrong.

Q I just wondered. I thought I heard it that way and I just wanted to know; isn't it a fact that in the appointment of judges in many particular courts long terms are given and in some cases life terms are given to the judges in order that public opinion should not influence their decisions in particular cases?

A That is right. I agree with that too.

Q Well, would you suggest then, under those circumstances, that a board—

A They could serve for ten years as far as I am concerned.

Q . . . who could serve for a lengthy time, that that would probably be an important addition to our system? A Well, if I had my way the board could be constituted the same way for ten long years.

BY MR. KOHN:

Q Judge Toal, you stated you did not get a notice of the hearing on the merits. Do you think as a matter of procedure that it would be a good thing for the Pardons Board investigator to go into the community and get the feeling of the community with regard to a particular case

and also with regard to the feelings of the victim? Do you think that is an important part?

A Well, I do. I will shade my answer to the member of the Board to this extent, that a thorough investigation should be made, not just a simple investigation. Each case should stand on its own feet and each case should be just as important as any other case no matter whether it was a misdemeanor or felony. And although it may take longer and although it might cost a little more money, the Board should be given every opportunity and every assistance to make the right decision.

MR. KOHN: That is all.

BY REPRESENTATIVE LOPRESTI:

Q Have you ever heard of anybody being shut off from any debate or limited in the length of time he took before the Parole Board on a particular case?

A The Parole Board or the Pardons Board?

Q The Pardons Board, I am sorry.

A No, I have not. I just heard that they gave about ten minutes for each case. That is all I heard.

CROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Judge, the rules provide for a half hour in capital cases and fifteen minutes for each side on regular cases.

I suppose when you were assistant district attorney you occasionally would come up before the Board of Pardons?

A Yes, on occasions. I did not do it as a regular thing, but I have been up before the Board of Pardons.

Q Is it not a fact, whether a man takes three or five minutes to present his case, if he does not want to take as long as it requires to present it, he is given that opportunity?

A Perhaps he is. I don't know. I am not familiar with that. I have been away from it for so long that I could not answer that with honesty.

Q Now with respect to the question of rules; the courts make their own rules, do they not?

A They do, and they have the inherent power to do it.

Q Sure. And it is necessary that they have that power.

A Right.

Q It is necessary that the Board of Pardons has the power to make reasonable rules, isn't it?

A I agree with that.

Q Even though it is highly desirable that before they are put into effect any people who practice before them, or the public generally, or the prosecutors, that the judges be aware to make any changes?

A I agree with that.

Q And they should print them and publish them?

A They should print them. They should give public notice of any changes.

Q Now we discussed your views of the Pardons Board, and Senator Scott raised a question that leaves me a little bit in doubt as to whether there was communication. Your feeling, as I understand it, is based on the Hyman case and you could probably base it upon the Wa-nee-nu case in the Supreme Court?

A Well, of course, the Supreme Court was the court that freed Wa-nee-nu.

Q Yes, but they contended and exerted power to assert as a matter of law that where the evidence is insufficient to convict they can discharge the defendant without day?

A That is correct.

Q However, what I would like to ask you about is not such a case, but a case where the evidence on its face is sufficient so that any Appellate Court would be obliged on the record to affirm the conviction and then because of new evidence or—

A Now you said something, "new evidence."

Q All right, new evidence.

A I agree with that wholeheartedly.

Q The man is found to be innocent—you would not want to live in a jurisdiction where there was no public authority powerless to act in such a case?

A No, I would not.

Q But the lower courts do not have the right to grant a new trial, do they, in such cases once the term has expired?

A They do on error coram nobis.

Q That is not a question of law?

A It is a question of fact. And innocence would be on a base of fact.

Q But it would have to be a mistake of fact, would it not?

A That would show that the thing that was proven before the court and jury was incorrect.

Q All right. Now suppose there is a case in which there is no case of new evidence. Would you say that there should be no tribunal in Pennsylvania that could re-assess the evidence except the jury?

A I would say that if there was no—now you say re-assess the evidence.

Q For the purpose of determining—

A I would say that no tribunal constituted of, say, four members like the Pennsylvania Board of Pardons should have the right to re-evaluate the evidence in any criminal case once it has been passed upon by a jury and a judge.

Q Now you are aware of facts, although both you and I agree that the jury system is the greatest system ever invented in the discovery of truth in a courtroom, nevertheless a jury can make mistakes like judges, like boards, like anybody else?

A Unfortunately, we are only human beings; and if a jury makes a mistake, I do not think there is any tribunal that has the inherent power to correct that mistake.

Q Not even the chief executive of a state?

A There would have to be overwhelming evidence, ovrwhelming evidence beyond a reasonable doubt to contradict the evidence that was submitted to the jury before any power should vest in any human being to change that verdict.

Q Now, Judge, that has not, however, been the law of Pennsylvania, has it?

A No, it has not.

Q Now you agree that, as a matter of law, under the Constitutional Article IV, Section 9, the Governor, upon

the recommendation of the Board of Pardons, can pardon even before sentence?

A There is no doubt about that; and if he wants to incur the wrath of the public, he can arbitrarily do anything he wants with the case.

Q Now the Supreme Court of Pennsylvania—

A And so can the Board, in recommending it to the Governor.

Q You are familiar with the fact that the Supreme Court of Pennsylvania has upheld that power as a matter of right?

A There is no doubt about it.

Q Now when this McSorley case came up before the Board of Pardons in September you wrote the letter of September 13, in which I quote the relevant part:

"It would appear that to make an application to your Honorable Board of Pardons in these cases before any jail sentence, or a portion thereof has been served and also before the Supreme Court has had an opportunity to decide the cases, is highly irregular."

A I still maintain that.

Q Yes? Well, as a matter of fact the Board itself agreed with you, didn't it?

A I don't know whether they did or not. I never received any notice.

Q Well, don't you know that the Board of Pardons in September, when that case came up before it, refused to act upon it on the grounds—

A I never got any notice.

Q Don't you know that it was turned down in September and the Board agreed with you on that pardon?

A Do the records show that?

Q Testimony before this committee shows that.

A I know nothing about that. I never got notice.

BY SENATOR SCOTT:

Q While we are on that point, do you know that there was a re-hearing in January of the following year?

A I do not, no.

Q And at that re-hearing before the Board of Pardons a commutation was granted?

A I know that they granted a commutation from two years to six months, but I never got any notice of it.

Q Did you get notice of the re-hearing?

A No, never.

Q Then you never had an opportunity to state your convictions on the merits of the situation?

A I have already stated my convictions on the merits in that letter, and I had a feeling that that letter was not considered.

BY ATTORNEY GENERAL McBRIDE:

Q Well, when you say you have a feeling—

A I have only a feeling.

Q Because you don't know that it was not considered?

A No, I don't know.

Q As a matter of fact, the mere fact that the Board disagreed with the judge in a given case does not mean that it did not consider his letter. It may be simply that they disagreed because of other information which they had.

A I would have to agree with that. I have no information to show otherwise.

SENATOR SCOTT: General, I did not realize that the Judge had stated his feelings on the merits in that letter. All I have heard from the testimony here today was that he objected because of the time period and the fact that it was still pending before the Appellate Court. I didn't realize that.

ATTORNEY GENERAL McBRIDE: Senator, the last sentence is this: "Due process of law has been exercised with regard to each of these defendants, and they should be required to serve the jail sentences imposed on them by the court.

BY ATTORNEY GENERAL McBRIDE:

Q Now you did not change your mind on that. You have not changed it until today?

A I have not changed my mind up to this minute.

Q The Board has before it upon the re-hearing your statement on the merits to the effect that you were against it?

A That is right. There was a statement of the merits in that letter.

REPRESENTATIVE BELL: I don't think it has been brought out that there was a statement of the merits in that letter.

BY ATTORNEY GENERAL McBRIDE:

Q Had you gotten a notice, of course, you would have stuck by it?

A I probably would have reiterated what was said in that letter.

Q Now when you say that Judge Kraft, for whom all of us have the same high regard as you have, argued this case, he argued on the grounds that these men were actually innocent, didn't he?

A That is right.

Q And he contended in the Appellate Court that they were innocent?

A I don't know about that. He couldn't have—well, let us see what he did do. Let us see if we have any Appellate Court decisions in the McSorley case.

Q Well, that technical question would not be open there, would it? It would just be the question of innocence?

A No. That is right. Your question confused me somewhat. If he had demurred to the evidence in the lower court, he would go up on the demurrer on the refusal to grant the demurrer technically on the sufficiency of the evidence.

Q Not whether the evidence was true or false?

A That is correct; whether it made out a case.

Q That would not be open before the Appellate Court, would it?

A No.

Q Now before the case, however, went before the Board of Pardons Mr. Kraft was appointed to the United States District Court and is now Judge Kraft.

A That is correct.

Q And associated with him in the trial of that case was Robert Trescher, a lawyer from Philadelphia?

A Yes, I think he sat with him during the trial.

Q Are you familiar with the contention made before

the Board of Pardons that these men were actually innocent?

A Well now, Mr. McBride, that is where you and I part company. To get up before the Board of Pardons and make the mere statement that these five men were innocent would not be convincing to anybody unless it was based on a factual situation which was worthy of belief.

Q Now did not both the then Mr. Kraft and Mr. Trescher take the factual position that had these five men been in and among all this demolished debris, and having been caught in an automobile six blocks away, they could not have possibly been as clean from the bottom of their shoes, their clothing; they would have evidenced being out of breath, and so forth. Didn't they argue from that indubitible fact these men had to be innocent?

A Yes, they did along those lines, I think, but I do not think—and I will have to say it respectfully—that it was very convincing.

Q What you mean is it did not convince your Honor?

A It did not convince me.

Q You do not know whether it convinced the Board of Pardons?

A No, I cannot say whether it did or not.

Q But we can say that Mr. Kraft, now Judge Kraft, would not have made that argument unless he thoroughly believed it and he was—

A I would say that like all good advocates, Judge Kraft would do everything he could to keep his clients out of jail, including yourself. You would do the same thing.

Q You do not mean also that Judge Kraft would have made an argument to the court that these men were innocent unless he believes it?

A Oh, no. He does not have to believe in their innocence, and you know that he does not. If his client can say that he is innocent, he can take that for granted, and you know that.

Q Didn't he in fact say he believes they were innocent?

A I do not know about that. I doubt that he did. Bill Kraft would never put himself out on a limb. He represented himself as an advocate.

Q If I say to you now that he told me personally yesterday on the telephone you would accept that statement, would you not?

A I think I would have to.

CHAIRMAN TOMPKINS: Now again I think the General is trying to testify.

THE WITNESS: Has he been sworn yet?

MR. KOHN: Not yet.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I tell you what I would like to do in this connection. Having talked with Judge Kraft, he has asked me if I would state to this committee that if the committee directs a communication to him, he will respond to it in any fashion suggested to him by the committee, whether it be a letter, whether it be a personal appearance or whatever the committe wishes. He would like to state his views about this case fully the way he presented them to the lower court and to the Appellate Court. Mr. Trescher is here to state what he argued to the State Board of Pardons. So that you will have both sides of the case.

REPRESENTATIVE BELL: Am I to understand that Mr. Kraft made that statement to the Board of Pardons?

ATTORNEY GENERAL McBRIDE: Mr. Kraft did not appear before the Board of Pardons, but Mr. Trescher made the statement to the Board of Pardons.

REPRESENTATIVE BELL: But Judge Kraft said it yesterday, and authorized direct quotation of himself, that that not only was his opinion then but is his opinion now. It is just to show that reasonable minds may differ on it.

CHAIRMAN TOMPKINS: We will take your suggestion into consideration in executive session and dispose of it.

BY CHAIRMAN TOMPKINS:

Q I would at this point like to ask the witness one question. In all those cases where a defendant goes to a jury for determination of his guilt or innocence—and in cases where they plead guilty, of course, that is gone by the board when they admit their guilt—but in all those cases which go to a jury trial, doesn't the defendent, as well as his advocate, protest at the jury trial and all the way through in it the innocence of his client?

A That is absolutely right. And if he did not do it he ought to be disbarred. I have a strong opinion on that. I think if you are an advocate, you should be an advocate.

BY REPRESENTATIVE BELL:

Q I have a question concerning a member of the bar, I understand, by the name of Mr. Trescher who in his questioning General McBride stated he was present during the trials in Delaware County and who, this afternoon's testimony indicates, handled this man before the Pardons Board. Are you familiar with this gentleman, Mr. Trescher?

A No, I just met him this morning. I never saw him before in my life.

Q In other words he did not appear in the Delaware County hearings?

A He did not. I was only at one hearing, only in the hearing on the after-discovered evidence. I was not the trial judge.

Q Do you of your own knowledge have any information whether Mr. Trescher ever raised the question of undo influence, or whatever it was, on the judge and jury by the conditions?

A I would be unable to answer that because I was not present at the actual trial on the merits. As I said before, I merely sat as the hearing judge on the hearing in the after-discovered evidence.

SENATOR SCOTT: Mr. Chairman, what I think is important here is what does the Pardons Board have before it in the way of argument by counsel or what the Pardons Board had before it in way of confidential information or evidence which led them to make their decision. Senator Yosko suggested a few minutes ago that the file be put in evidence and I think we ought to do that.

CHAIRMAN TOMPKINS: I think also that that should go into the record.

I would like to stop at this point, but I would like very much, upon the completion of this witness's testimony, to recess this hearing until Monday morning.

I wonder if maybe that record is not something which

is in the possession of the Pardons Board that could be furnished to us by them on Monday morning?

ATTORNEY GENERAL McBRIDE: Is there anyway the Board can hear Mr. Trescher today? I do not want to prevail too hard but he is a private practicing lawye and he has been here two days?

MR. KOHN. Well, Mr. Hughes wants to be heard, too.

CHAIRMAN TOMPKINS: Yes, we will have a couple others. I want to try to accommodate everybody but stil at the same time we cannot accommodate them at the expense of some other matters which we must attend to

ATTORNEY GENERAL McBRIDE. I think we are finished with Judge Toal.

CHAIRMAN TOMPKINS: Do any members of the committee have any questions of Judge Toal?

(No response.)

CHAIRMAN TOMPKINS: We will now recess these hearings until ten-thirty next Monday morning at the same place.

(At 3:10 p. m. the hearings adjourned until ten-thirty Monday, March 4, 1957.)

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same.

A. J. PLESCE

Reported by:

Anthony J. Plesce
Box 582
Harrisburg, Penna.

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8, AT HARRISBURG, PENNSYLVANIA, MARCH 4, 1957.

VOLUME III

PATRICIA L. SAYER
1625 GREEN STREET, HARRISBURG, PA.
CEdar 2-2832

INDEX

COMMITTEE'S WITNESS DIRECT CROSS REDIRECT RECROSS

Frank R. Hean (Recalled)

BEFORE JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8.

Stenographic report of hearing held in Senate Caucus Room, Main Capital Building, Harrisburg, Pennsylvania, at 10:45 a. m., Monday, March 4, 1957.

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania.
For—Board of Pardons.

DAVID S KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania.
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania. For—Committee (Assisting Counsel).

CHAIRMAN TOMPKINS: The hearing will come to order.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, may I make a statement?

CHAIRMAN TOMPKINS: You may.

ATTORNEY GENERAL McBRIDE: At the hearing last week Mr. Hughes, an assistant District Attorney from Delaware County, was here and testified to the effect that a transcript taken before the Board of Pardons in January 1956 was incomplete in that it did not contain certain important statements that he said were made by Mr. Finnegan.

Mr. Hughes also said that Judge Toal was the trial judge in that riot case. He also said that there was a riot since in connection with the Westinghouse case.

Now when Mr. Hughes came up to testify, the ground rules as I understood them were that following questions by committee counsel, by each member of the committee, that I would then cross-examine witnesses. When the next day, Thursday, came and Mr. Hughes had not completed his testimony, Judge Bretherick and Judge Toal testified. All of us, of course, considered that to be entirely in order that his testimony be interrupted to yield to two judges from his county but it was understood that he would come back and that he would testify on cross-examination.

Now I have been informed that Mr. Hughes, having testified, will not be back for cross-examination now as we had expected and I submit, Mr. Chairman, that this is a matter of great moment and if that is so it is most unfair because Mr. Hughes testified that at the January hearing the transcript was incomplete; that Mr. Finnegan had made statements at that hearing and the Board was led to believe that in some way the Board or the secretary taking the transcription had not done the duty required by law.

Now the plain fact, Mr. Chairman, is that Mr. Finnegan was not only not at that Board, Mr. Chairman—

REPRESENTATIVE BELL: Is this a matter that we have gone into on testimony? What I mean is I would prefer to have Mr. Finnegan testify than the Attorney General state what he would testify.

ATTORNEY GENERAL McBRIDE: I want to cross-examine the witness, Mr. Chairman.

REPRESENTATIVE BELL: May I ask a question on this, Mr. Chairman? Is Mr. Hughes going to come back to testify?

CHAIRMAN TOMPKINS: He will not be here this morning. In the future if the Attorney General feels aggrieved by it, certainly the committee should resolve that issue and give you an appropriate statement, General. You are entitled to it I would say.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, you told me before the committee sat, before you just called the meeting to order, that Mr. Hughes was not coming back.

CHAIRMAN TOMPKINS: He is not here today.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, you just said he is not coming back. You did not say today. Now we want to meet this issue head-on and it seems to me I think all the members of the committee would agree that when a man gives testimony, he should not be permitted to go until all have questioned him.

REPRESENTATIVE BELL: Mr. Chairman, I think there is some misunderstanding here. As Mr. McBride recalls, it was the the objection raised by himself that led to the recess being called on the hearing on Wednesday I believe. Now I would like our counsel, Mr. Kohn, to state whether or not he is through with Mr. Hughes' testimony.

MR. KOHN: I think we will bring Mr. Hughes back as I explained to you before.

ATTORNEY GENERAL McBRIDE: I do not think that settles it at all but I will have to be content with it because I arose because I understood that Mr. Hughes was not being brought back and certainly in the interest of order, Mr. Hughes would come back here today and we would finish with Delaware County.

The committee knows that Mr. Trescher has been here. The committee knows that Mr. Smith's letter has been offered in evidence before. The committee has said that Mr. Smith would be here. Is Mr. Smith here, Mr. Chairman?

CHAIRMAN TOMPKINS: We did not say that Mr. Smith would be here this morning. He had directions that he would be brought in but I did not say when.

SENATOR YOSKO: Mr. Tompkins, was the Assistant District Attorney of Delaware County subpoenaed to come here?

CHAIRMAN TOMPKINS: The subpoena was handed to him, yes sir.

SENATOR YOSKO: And has he been released from that subpoena?

CHAIRMAN TOMPKINS: From attendance at today's session.

SENATOR YOSKO: But not for the future?

CHAIRMAN TOMPKINS: Oh no, no.

ATTORNEY GENERAL McBRIDE: Can we do that in view of the fact that when a man is under subpoena and the other side does not know that he is being released, does not know when he is coming back? It is not usual to do that, I must say.

SENATOR YOSKO: Well, we will fix a time for him to come back. If the committee did not specifically tell him to come back today, then it is the committee's fault that he is not here and I would not say that it is Mr. Hughes' fault.

REPRESENTATIVE BELL: Mr. Chairman, I do not think it is anybody's fault on the committee. I think this committee has its power to decide who they are going to call and when they are going to call.

SENATOR YOSKO: Now, Mr. Bell, the committee did not need to decide who was going to be called and who was not going to be called, so that it might be a good idea since the question was raised that the committee meet and decide who we are going to call and when we are going to call them so that all of us would be able to arrange our time and at the same time give those who are going to be called sufficient notice to be here.

REPRESENTATIVE LOPRESTI: I might say, Mr. Chairman, it was my impression that this morning we were going to devote a few minutes, fifteen or twenty minutes or a half hour to Delaware and finish it up. That was my understanding when I left here on Thursday. We were going to finish Delaware this morning and then go to something else.

CHAIRMAN TOMPKINS: Well that was the general idea but our Counsel has developed the case in chief in a manner that it is not appropriate to proceed further with Delaware County cases this morning but it will be completed before these hearings are finished, and all matters which have been raised by the Attorney General will be thoroughly covered before the testimony and these hearing are completed.

MR. KOHN: Mr. Tompkins, while on the Delaware County cases I now make a request of the Attorney General to produce and put into evidence the letter of Mayor Clark in regard to the Smith matter which was not presented. I mean the Attorney General presented a letter that Smith wrote to Mr. Finnegan and I think the accompanying letter from Mayor Clark should also accompany that to be put in the record and when we take up those cases I will expect to have those present.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, at this time I have never seen any letter from Mayor Clark. I do not understand that any letter from Mayor Clark accompanied Mr. Smith's letter.

MR. KOHN: Mr. Smith's letter says that he is sending a letter to Mayor Clark accompanying that, introducing him to Mr. Finnegan.

ATTORNEY GENERAL McBRIDE: Read it and tell me what part of it says that.

CHAIRMAN TOMPKINS: By the way, is that letter available for the record now, General?

MR. KOHN: Yes it is, sir.

I am referring to this letter which says as follows.

(Off the record at the instruction of Mr. Kohn).

CHAIRMAN TOMPKINS: I would like to have that in the record.

ATTORNEY GENERAL McBRIDE: Yes, that is what I recall that it said also, but you see that letter from Mayor Clark, if it existed, did not accompany this letter of Mr. Smith's. Now I will ask Mr. Finnegan if he has such a letter and if he has such a letter, I shall be delighted to produce it.

MR. KOHN. Thank you, Mr. McBride.

ATTORNEY GENERAL McBRIDE: Now, we had a couple photostats made. Shall I hand the original back to the secretary?

CHAIRMAN TOMPKINS: Give it to the court reporter there.

MR. KOHN: Mr. Hean, will you take the stand, please?

REPRESENTATIVE LOPRESTI: Mr. Chairman, before we proceed any further I think Mr. Trescher is here this morning and he has been here for the last two days sitting patiently to discuss Delaware matters, and I think before we get off of them we should give him an opportunity if he wishes to testify before this committee.

He has been here on three different days and is here again this morning.

MR. KOHN: We have not subpoenaed Mr. Trescher and I am not through with the Board's case in chief. I should like to call some other witnesses on that Delaware matter before Mr. Trescher should be allowed to testify. That is the only reason I intend to—

ATTORNEY GENERAL McBRIDE: Everybody has known that Mr. Trescher was here. He is an independent practitioner. Why couldn't we hear him? However, if you are not going to do it—

CHAIRMAN TOMPKINS: Well it might be a matter of convenience to Mr. Trescher but it is not a matter of convenience to our case in chief, and I do not believe that we should break up the processes of our case in chief for the purpose of letting the defendant testify out of order.

ATTORNEY GENERAL McBRIDE: I do not think we should stop our rules in the middle of the game either and we understood that we were going to finish with Delaware County before we went elsewhere.

Mr. Trescher, I assume you can go; I am very sorry.

SENATOR SCOTT: Mr. Chairman—

CHAIRMAN TOMPKINS: Yes, Senator Scott.

SENATOR SCOTT: Was it your thought to continue with Delaware County this morning?

MR. KOHN. I am sorry if that misunderstanding existed. You see, Senator Scott, the position I find myself in is, of course, we can only have hearings about twice a week, about two to four hours. Most of the people that we are getting in here are, of course, people who are tied up in the courts and that is the reason Mr. Hughes could not be here. He was here and, of course, you know we suspended the hearings on Wednesday afternoon because of a question that came up before the committee. He would be here now and I am very, very sorry that you or anybody else got the idea because I specifically—

SENATOR SCOTT: My own personal opinion is if we are going to do anything on Delaware County this morning, then Mr. Trescher should be allowed to testify but if we are forgetting about Delaware County this morning, then he will just have to take—

MR. KOHN: I will notify both the Board hereafter and Mr. McBride when we are going to continue.

SENATOR YOSKO: Mr. Chairman and Mr. Kohn, it was my understanding when we adjourned here on Thursday that we would continue with the Delaware County cases this morning, complete them to the extent that we could and then go into another case. That was my understanding. I have not read the record but I repeat that was my understanding, and if that is what it was and Mr. Trescher came here this morning with that understanding, then I think we ought to hear him and dismiss him so that he can go back to his law practice instead of hanging around here.

MR. KOHN: I did not ask him to come here. He was not subpoenaed and I say to you now I feel that I have other—

SENATOR YOSKO: When you say he was not asked to come here, you were notified and the committee was notified that he was here and we understood that if there was testimony on the one side of the question, we would hear the other side, too, and that is why Mr. Trescher is here and I think that point was stressed and made clear to us by the Attorney General.

CHAIRMAN TOMPKINS: Senator Yosko, we are not trying to deny Mr. Trescher his right to testify but we do say at this point we do not think his testimony is appropriate until other groundwork is laid in connection with his defense statements and it is unfortunate that our limited time to hold hearings and so forth is such that we find ourselves jammed up in these situations at times. Believe me, it was no design of any kind that it took place. It is one of those things that will happen in a legislative investigation that you have been on and I have been on. You know those things will happen and I feel that this committee is charged with looking into the actions of the Pardons Board and that we want to present our case in chief, and then whatever defense shall come in we certainly want to give them an opportunity to be heard. We do not want to deny anybody that opportunity as long as it relates to matters over which our inquiry is directed.

SENATOR YOSKO: Do I understand from you then, Mr. Chairman, that there are other witnesses that will testify in addition to those that we heard involving the Delaware County cases?

CHAIRMAN TOMPKINS: There are, sir.

SENATOR SCOTT: May I suggest, Mr. Chairman, that in the future when we get on a particular case, that we hear everything in connection with that case before we even think about going on with something else?

MR. KOHN: I would like to say something about, Senator Scott, our position on that. I will do anything the committee wants. We have taken a great deal of time to bring witnesses here who are important to the functions of the courts of this Commonwealth. I designate certain days and then we are not finished with them and, of course, I have to plan my work. Of course, if you want a hearing on Monday, I have to plan my work now. Now the District Attorney of Erie County has come down here today and, of course, he has to allocate his work and, of course, I planned this ahead of time. You cannot call up those people and say, "Now you just wait until Wednesday or Thursday," or something like that and this is the reason it happened. With your limited time, I am in a spot but whatever you say I will do but we are going to have that difficulty as we go along.

SENATOR YOSKO: Yes, but, Mr. Kohn, may I suggest that in the future you do not schedule other cases before we complete one that has been started and then we will not run into this difficulty here?

MR. KOHN: That is easy for you to say but if you would try to get these witnesses here from the different points of the Commonwealth and try to set the time and the date for people who are tied up with the courts in our Commonwealth, you would have the same difficulty I do. It is not that I do not want to cooperate with you, it is the fact that I find myself in the situation where the committee only—

CHAIRMAN TOMPKINS: Very well, we will resolve these issues at an executive meeting after the hearing today. I think we should get started because we only

have a short time left in which to proceed. I think the issues are properly raised and they will be disposed of.

MR. KOHN: Frank Hean, please.

FRANK R. HEAN, Recalled on
FURTHER REDIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Hean, are you familiar with the case of Commonwealth against John J. Martin, Application A3103, June Sessions, 1955?

A I have the record here before me, Mr. Kohn.

Q And Martin was one of the defendants in the bribery case in Erie, was he not?

A That is correct.

Q What was the connection of Schwartz in those cases?

A I can only say from the record that he was one of those indicted and tried.

BY SENATOR SCOTT:

Q Who was?

A Mr. Schwartz, Stanley Schwartz.

BY MR. KOHN:

Q I am talking about all the bribery cases in Erie, and what was Flatley's connection with the case?

A He was one of those persons indicted in the so-called Erie bribery case.

Q Do you know what Flatley's political connections were?

A I was informed that at the time of his indictment he was mayor of the city of Erie.

Q What does the record show? It shows that he was elected as the Democratic mayor of the city of Erie, does it not?

A I would not say that until I would look at the record.

Q You read his record.

A "At the November election, 1951, I was elected Mayor of the City of Erie." That is what it says here.

Q Do you know as a fact that he was the Democratic nominee and mayor of Erie?

A It has been so reported to me that he was.

Q Now what do you know about Stanley Schwartz who was also involved in those cases? What was his position in regard to whether or not he was a State Committeeman and Campaign Manager for the Democratic Party during the year 1954?

A All I know is what he set forth at that time in his application.

Q Does he set that forth in his application?

A I do not have the application before me. May I look at it?

His application sets forth that:

"During the year 1954 I was acting as a State Committeeman and City Campaign Manager for the Democratic Party,"—shall I continue reading?

Q Yes, go ahead.

A "And in this capacity I was endeavoring to raise funds to carry on the political activities of the Party."

Q Go ahead, finish it.

A "In order to achieve such purpose there was a meeting held between the Mayor of the City of Erie, Thomas W. Flatley, whose political campaign I had managed, Police Inspector Jack Martin, and Henry Soscia, who was the Democratic Party Treasurer, and myself, at which time it was decided to obtain contributions, among others from men engaged in gambling activities."

Q Is that all?

A Oh no, do you want me to read the whole paragraph?

Q Yes.

A "This meeting took place during the early part of 1954 and I began to collect money from John McCarthy, who was the owner of a cigar store located on the corner of 7th and State Streets, and from Arthur Damore, whose place of business is located on East Avenue. The money collected from these individuals was turned over to the Inspector Jack Martin, whom in turn, deducted each month the sum of $250.00, which he gave to Henry Soscia, dividing the balance between himself, the Mayor, and me. I used the amount thus received exclusively for political activities. At no time did I ask the Mayor or Jack Martin to extend any police protection to the men from whom I was collecting money."

Q Now will you read Flatley's application statement?

CHAIRMAN TOMPKINS: What was that you read?

MR. KOHN: That is the statement under Question "15. (a) State briefly details of crime" as stated in the application for commutation.

SENATOR SCOTT: Whose commutation?

MR. KOHN: That is Stanley Schwartz.

SENATOR SCOTT: What was the charge there? What was he found guilty of?

MR. KOHN: He was found guilty of bribery.

BY MR. KOHN:

Q Now will you read the statement of Thomas Flatley, Question 15 in his application for commutation, please?

SENATOR SCOTT: What was he charged with?

MR. KOHN: Charge, bribery.

SENATOR SCOTT: Was he found guilty?

MR. KOHN: Plead guilty, violation of oath of office and I think conspiracy.

SENATOR YOSKO: What is his name?

MR. KOHN. Thomas W. Flatley.

SENATOR SCOTT: Bribery and conspiracy.

BY MR. KOHN:

Q Will you read paragraph 15 of his application?

A Reading paragraph 15. (a) from the application of Thomas W. Flatley for clemency:

"At the November election, 1951, I was elected Mayor of the City of Erie. During my entire campaign, Stanley Schwartz, who had been active in politics on East side of Erie, was extremenly active in my campaign. After I took office in January 1952, Stanley Schwartz, continued to help me and advise me on numerous political matters. Shortly after taking office Stanley Schwartz suggested that I could receive some money in addition to my regular salary. I do not recall whether or not the source of this money was mentioned, but I understood that it was to come from the gambling element of the city. I at first refused to have any part in a transaction of this type. However, over a period of time, Stanley Schwartz continued to suggest this matter to me. He stated that everyone who had been in City Hall in the past had done the same thing. He stated there was really nothing wrong with it, and it cost a lot of money to be Mayor.

"I continued to refuse to have any part of this for a period one and one-half years. However, during the early

part of 1953 my wife became ill with cancer and was sick for sometime, and finally died on June 19, 1953. The long illness had entailed considerable expense, bills had piled up and of course, I was heart broken over the loss of my wife. I finally gave in to Stanley's suggestion and began to accept some of the money from him. At first it amounted to $100.00 to $150.00 per month. Later it evidently became more organized and some months ran as high as $450.00. I never knew the exact source of these payments, but as I previously stated that I suspected they were coming from the gambling element. I was never asked to do anything for these payments nor refrain from doing anything.

"After about a year, in April of 1954, Jack J. Martin, the Inspector of Police, became a third member to this transaction, which continued up to my arrest on October 16, 1954."

Q Now do you know whether Flatley plead guilty?

A Let me look at the record. This will reveal that.

Q He plead guilty. Now in regard to Stanley Schwartz, he took an appeal to the Superior Court of the Commonwealth of Pennsylvania, did he not?

A According to the record here before me it would so appear.

Q Now it is obvious from the two paragraphs that you read that the statement says for what purposes the money was gotten with regard to Schwartz and Flatley. Flatley says he took it for his own money because his wife was sick and Schwartz says he took it for political purposes, is that correct?

A That is the statement I read.

Q Did the Board consider those factors when they gave a commutation, both of them at the same time?

ATTORNEY GENERAL McBRIDE: Mr. Chairman, may I say that from what has been read it seems to me that Mr. Schwartz said that he, Mr. Schwartz, used it for political purposes. Mr. Flatley says he used it for personal purposes. Now I understand that Mr. Kohn's question indicates that there is a disagreement between Mr. Schwartz and Mayor Flatley as to how Mr. Flatley used it.

I do not see that disagreement and I think it ought to be pointed out.

CHAIRMAN TOMPKINS: If the witness knows, I think he should answer the question.

REPRESENTATIVE LOPRESTI: Mr. Chairman, under those circumstances I would ask that the statement of Mr. Schwartz be read over again because I so understood it that Mr. Schwartz is speaking in so far as he, himself is concerned. He had not used any of it. He did not say that Flatley or anybody else did not use them personally, so there is a conflict between the two as our Counsel has suggested .

CHAIRMAN TOMPKINS: Will the reporter read the question of Counsel again?

(Reporter compiled).

SENATOR YOSKO: What is he trying to prove?

MR. KOHN: That they were inconsistent, the statements, and even though they were inconsistent the Board gave them both pardons but they were not consistent. That is the point.

BY CHAIRMAN TOMPKINS:

Q What we are asking is whether or not the Board took these two persons' statements in consideration at the time of the decision.

A They were not heard together, Mr. Chairman, at the same time.

ATTORNEY GENERAL McBRIDE: Mr. Kohn and Mr Chairman, my only point is this. Whether or not you are talking about a conflict about what Flatley used his money for, Schwartz was talking about what Schwartz used his money for, and Flatley was talking about what Flatley used his money for.

SENATOR SCOTT: Very frankly, Mr. Chairman, I am confused on this and probably it is my own fault because I was not paying too much attention to the statements, so let him read them over again.

CHAIRMAN TOMPKINS: Will you read the Schwartz statement again, please?

Q I have the Schwartz statement here, is that correct?

A I am reading from his application for clemency, paragraph 15—

SENATOR YOSKO: Before you start to read, Mr. Kohn, will you explain to us, at least to me if the others are not interested, what do you propose to prove by these statements? I mean what is the point?

MR. KOHN: The groundwork and consideration by the Board.

SENATOR YOSKO: In granting the commutation?

MR. KOHN. Certainly.

THE WITNESS: Shall I continue?

CHAIRMAN TOMPKINS: Proceed.

THE WITNESS: To pick up the thought, I am reading from the application of Stanley M. Schwartz:

"During the year of 1954 I was acting as a State Committeeman and City Campaign Manager for the Democratic Party, and in this capacity I was endeavoring to raise funds to carry on the political activities of the Party. In order to achieve such purpose there was a meeting held between the Mayor of the City of Erie, Thomas W. Flatley, whose political campaign I had managed, Police Inspector Jack Martin and Henry Soscia,"—S-o-s-c-i-a—"who was the Democratic Party Treasurer, and myself, at which time it was decided to obtain contributions, among others, from men engaged in gambling activities. This meeting took place during the early part of 1954 and I began to collect money from Jack McCarthy"—correction—"John McCarthy, who was the owner of a cigar store located on the corner of 7th and State Streets and from Arthur Damore"—D-a-m-o-r-e—"whose place of business was located on East Avenue. the money collected from these individuals was turned over to Inspector Jack Martin, whom in turn, deducted each month the sum of $250.00, which he gave to Henry Soscia, dividing the balance between himself, the Mayor, and me. I used the amount thus received exclusively for political activities. At no time did I ask the Mayor or Jack Martin to extend any police protection to the men from whom I was collecting money."

Now shall I continue the second paragraph?

MR. KOHN: If the Board wants it.

CHAIRMAN TOMPKINS: You might as well complete it.

THE WITNESS: "On the 16th day of October, 1954, I was arrested, together with the Mayor, Inspector Jack Martin, Henry Soscia, and about thirty-five other men, and charged with various charges of bribery and conspiracy, and I was tried on one specific indictment, a charge of bribery, for giving the sum of $580.00 to the

Mayor of the City of Erie on the 15th day of August, 1954, when, as a matter of fact, I did not give any money to the Mayor, but I received money from the share of the collections turned over to Inspector Jack Martin."

That is the paragraph.

BY CHAIRMAN TOMPKINS:

Q Now, Mr. Hean, can you tell the committee what session of the Pardons Board that application was heard?

A That was heard in February 1956; at that session, No. 75 on the February list.

Q And was action taken on that application?

A Yes.

Q Was there commutation?

A I will refer to my February of 1956—there was action taken, Mr. Chairman, on Stanley M. Schwartz; a vote of three "yes" commuting his sentence to one year from a year and one-half. The effective date of his sentence—this is when he went to prison—was August 8, 1955.

BY SENATOR YOSKO:

Q Was he found guilty or did he plead guilty?

A He plead not guilty and was so found by Erie County.

Q And was he convicted in Erie?

A Yes.

ATTORNEY GENERAL McBRIDE: Meaning he was found guilty.

MR. KOHN: He then took an appeal to the Superior Court of Pennsylvania.

BY CHAIRMAN TOMPKINS:

Q Just a moment, Mr. Kohn, I want to get a couple of dates straightened out. Now at what session of the Board was the Flatley case heard?

A That was heard at the December meeting of the Board of Pardons of 1955. It was No. 135, September of 1955; No. 135 on the list.

Q And what action was taken on that?

A The Board extended clemency for one year from the effective date of imprisonment. His effective date was January 10, 1955.

BY SENATOR YOSKO:

Q And the sentence was what?

A The sentence was one and one-half to three years.

BY SENATOR SCOTT:

Q And he plead guilty in that case?

A He plead guilty.

BY SENATOR YOSKO:

Q And it was commuted to what?

A It was commuted from one year. It was changed to eleven months, five days, expiring the fifteenth day of December 1955.

BY MR. KOHN:

Q When was that change made?

A I have nothing except the note that it was changed I do not have for my records the precise date when that was done.

Q The original date of consideration, it was commuted to one year, was it not?

A That is correct.

Q And then subsequently, without having the date thereon, you do not know when it was commuted to eleven months and five days?

A I only have the note there, as you observed.

Q Is there any record anywhere as to why and when it was commuted and by what vote?

A I could not give you but my general recollection and impression.

Q Are there any notes at all in the Pardons Board records as to why, and how it was changed to eleven months and five days?

A There are no notes to my knowledge.

Q Now will you please refer to Stanley Schwartz and see if whether the same thing did not happen there?

A I have no record showing that his clemency was changed. He was given clemency of one year; that is he was to serve a minimum sentence of one year, reducing his minimum from a year and one-half to one year.

Q Now I refer back to the cases that were heard at the time of Stanley Schwartz. Isn't it true that the same thing happened in those other cases, that they were reduced from one year to eleven months, five days. I know it happened in some of the other cases.

ATTORNEY GENERAL McBRIDE: Martin, Dominic Adiutori, Ray Czulewicz.

THE WITNESS: It was No. 104, June Term, John Martin. I have it one year here.

CHAIRMAN TOMPKINS: Is this another case now?

MR. KOHN: This is John Martin. There are three cases in all.

SENATOR SCOTT: Well let's start with John Martin. What was he?

MR. KOHN: He was the police inspector.

CHAIRMAN TOMPKINS: Let's read his application and get the dates that it was before the Board and what action was taken.

BY MR. KOHN:

Q I call your attention to the application of John J. Martin—this is No. A-3103, marked June Session of 1955—and ask you to read the paragraph 15 of his application.

A John J. Martin, No. 104, June Term 1955, paragraph 15 (a):

"I had been a member of the Police Department for the City of Erie for approximately 16 years at the time of my arrest on October 16, 1954. I had received my appointment to the Department in 1938. In 1945, I was promoted to the rank of Sergeant, and in 1951 was appointed Inspector of Police.

"On April 19, 1954, I was called to the office of the Mayor of the City of Erie, Thomas Flatley. Present in his office at that time was Stanley Schwartz, a salesman for the Stanley Bros. Furniture Company and a politician particularly influential on the East side of the City of Erie. I was told by Mayor Flatley to see certain persons each month. These persons mentioned were known to me as gamblers. I do not recall the extent of the conversation, but the understanding was that I was to collect money from them and turn it over to the Mayor. Following this conversation, I did as I was directed and the money was equally divided in the Mayors office between the Mayor, Stanley Schwartz and myself. My one-third share was slightly under $500.00 per month.

I continued to do this until my arrest on October 16, 1954.

"Immediately following my arrest I made a full confession comprising 26 typewritten pages. I cooperated fully with the District Attorney's office. I also testified for the Commonwealth at the preliminary hearings, before the Grand Jury and the two trials of Stanley Schwartz. The last of the Schwartz trials, was approximately one month after my sentence."

BY SENATOR SCOTT:

Q Now what was Martin convicted of?
A According to the record, bribery and conspiracy.
Q Did he plead guilty or was there a jury trial?
A He plead guilty.
Q And what was his sentence?
A His sentence was one to two years in the Erie County Jail.
Q And what disposition did the Pardons Board make of his application?

MR. KOHN: May I suggest that you give how many times he applied and what happened each time.

THE WITNESS: John J. Martin applied—according to the record I have—applied for a hearing and was heard in June 1955.

BY SENATOR SCOTT:

Q And what disposition did the Pardons Board make of that application?
A Then as I recall the original thought was no; was reconsidered in October of 1955.
Q When you say the original thought, sir, do you mean there was an actual denial of any commutation of sentence there?
A It was not a continuance. Do not accuse me of being evasive but the consideration of it was neither a refusal flatly or a continuance or a held under advisement. I marked it as for "no." I think you have it there, too.
Q Will this refresh your recollection?
A It was refused in a sense, but the Board has the power to reconsider it, and which they did, and reconsidered it in October 1955, several months later.

BY CHAIRMAN TOMPKINS:

Q Without a new application?
A Without a new application.

BY SENATOR SCOTT:

Q You mean they automatically reconsidered it?
A They automatically reconsidered it, yes.
Q There is procedure for that, is there?
A The Board has the power to make its decisions as they see fit, as I understand. There is no rule.
Q Was there official notification given of the first rejection of it or was it held in the process of delay until the October term?
A Subject to correction, which my files would show, there was a notice sent out to the attorney representing Mr. Martin following the June meeting and that his petition had been refused.

BY CHAIRMAN TOMPKINS:

Q Was there any notice given to the district attorney or the judge?
A The district attorney would get notice likewise but not the judge.

BY SENATOR SCOTT:

Q Then you say there is a procedure where the Pardons Board can then re-evaluate the situation without a new application being filed. Is that correct?
A That is within their power, yes sir.

BY REPRESENTATIVE BELL:

Q Is that contained within a written rule?
A No, but they have the power, being an independent Constitutional body.

BY SENATOR SCOTT:

Q Do they do that very often?
A Not very often.
Q That procedure was not outlined heretofore, was it?
A No, it was not.

BY MR. KOHN:

Q Now isn't it true that this matter came before the Pardons Board three times according to your records?
A Offhand, but I would have to consult the records. You went through them. I would take your word for it, Dave.
Q There was no original application which was refused.
A That is correct.

SENATOR SCOTT: Was that the June 1955 one?

MR. KOHN: That is right. Then the petition for a rehearing was circulated on October 4, 1955 and unanimously refused.

SENATOR SCOTT: There is another procedure which I do not quite understand. When you say the petition for a rehearing was circulated, who initiated and who circulated that petition?

MR. KOHN: The petition, if I may speak for Mr. Hean, was circulated among the Board of Pardons on a statement stating that a petition for rehearing had been filed.

BY SENATOR SCOTT:

Q Is that correct, Mr. Hean?
A That is correct. I just got the memorandum out of the folder which I did not have.

BY MR. KOHN:

Q And that petition for a rehearing was circulated on October 4, 1955 and was unanimously refused, is that correct?
A Not according to this record.
Q What does your record show on that petition for the first rehearing?
A "Petitioner through the attached letter requests a reconsideration of the application heard at the June 1955 Session." This is marked October 25.
Q I am talking about October 4.
A The request for the rehearing was circulated in October 1955 and unanimously refused October 4, 1955.
Q In other words, let's get this thing straight. This, Mr. Hean, is an intercommuncation between yourself and the Pardons Board, dated October 4, but there had been a petition circulated and refused?

A That is right.

BY SENATOR SCOTT:

Q Now who initiated that petition?

A You mean the request?

Q Request for something that was circulated among the members of the Board. It has to originate somewhere.

A It originated upon request of Edward H. Carney, Esquire, who represented Mr. Martin.

Q Request to who?

A It was directed to me; that is "Board of Pardons, Commonwealth of Pennsylvania, Attention: Mr. Frank Hean."

Q Did that petition contain new matter for the consideration of the original application? Where is that application?

A This is the letter. This is the only thing we have.

Q In other words, there was no formal petition filed, was there, a formal petition?

A Letter.

Q There was a letter to you, asking you to take up with the Board—you correct me if I am wrong—asking you to take up with the Board the possibility of the Board rehearing this particular application, is that correct?

A That is correct.

BY MR. KOHN:

Q Has it been the practice of the Board to require the filing of new matter by petition or can it be done just by a letter?

A By letter, an informal presentation.

Q And who decides whether it is to be done by petition alleging new matter or just by letter?

A Well the Board has the right but if you will read the letter from Mr. Carney, he cited four reasons why he felt that this petition of Mr. Martin should be reconsidered.

SENATOR SCOTT: I think we ought to hear those four reasons.

CHAIRMAN TOMPKINS: Yes, let us hear the letter.

BY MR. KOHN:

Q On this letter of October 6, which is directed to you, Mr. Carney says that he took this matter up with both "you and Lieutenant Governor Furman. As you will recall, at that time I was advised to submit the matter in letter form," is that correct?

A That refreshes my memory, but I would grant that what he said was the truth.

SENATOR YOSKO: Why don't you read the letter that you received from the attorney for Mr. Martin?

MR. KOHN: I would be glad to read it if you would like to have it.

CHAIRMAN TOMPKINS: We would like to have all these communications.

SENATOR YOSKO: You are talking about a letter but nobody knows what is in it.

MR. KOHN: I will read it, if it is satisfactory.

This is a letter dated October 6, 1955, from Carney and Carney, Attorneys, Masonic Temple, Erie, Pennsylvania

SENATOR SCOTT: Now wait a minute, Mr. Kohn. I have a note here "October 4, 1955."

MR. KOHN. That was the day this memorandum was circulated.

SENATOR SCOTT: The memorandum for the rehearing was circulated on the 4th. I think that is the date.

MR. KOHN: That is the thing I thought you would catch.

This memorandum dated October 25, 1955 states that "A request for rehearing was circulated on October 4, 1955, and unanimously refused."

I would like to find that original circulation of that petition which was refused. I could not find it in the record. Do you have it, Mr. Hean?

REPRESENTATIVE LOPRESTI: Well Mr. Kohn, suppose we hear the letters and we will know what went on.

SENATOR YOSKO: Let us get the basis for the circulation of the petition. I mean for the circulation of the petition for reconsideration and that would be containted in the letter that Mr. Hean received from the attorney for the applicant. Let us get that first.

MR. KOHN: The first thing we ought to get is the petition for rehearing, which I cannot find in the record, which refused that petition, because this letter that is dated October 6 and that memorandum is the only thing I could find which was submitted for reconsideration after the original application was refused and that reconsideration was dated October 4.

SENATOR YOSKO: Mr. Kohn, if the facts are presented here in their proper sequence and whatever is documented there is read, we will be able to understand the situation. There is too much Mumbo Jumbo here and you just cannot get it.

SENATOR SCOTT: If there was a letter of October 6th, let us hear that letter.

THE WITNESS: I do not have that letter but I have the memorandum that the request was refused on October 14th, we got a letter.

BY CHAIRMAN TOMPKINS:

Q Where is the October 4 stuff, Mr. Hean?

A I do not know where it is.

Q What was that? What was that October 4 stuff?

A That was supposed to be a letter from Mr. Carney requesting a rehearing of the Martin case and it was refused.

BY MR. KOHN:

Q Arent' you sure what happened was that Mr. Carney was in here about October 4 and talked to you and the Lieutenant Governor about it, and you immediately circulated a petition for a rehearing and he followed it up with a letter of October 6 which I now have? Isn't that what happened?

A I do not recall that to be a fact.

Q There is nothing in the—

A Could I read this letter which explains why they reconsidered it after turning it down on October 4; they turn around on October 25 and reconsider it.

CHAIRMAN TOMPKINS: Let us not jump all over the lot. Read the October 6 letter then if you have it.

THE WITNESS: All right, this is the October 6 letter:

"Carney and Carney, Erie, October 6, 1955." Directed to the "Board of Pardons, Harrisburg, Attention: Frank R. Hean.

"Dear Mr. Hean:

"On September 24, 1955, when I was in Harrisburg, I discussed the matter of the resubmission of the Petition for commutation of John J. Martin, both with you and Lt. Gov. Furman. As you will recall, at that time I was advised to submit the matter in letter form.

"As you know, at the time of his arrest on October 16, 1954 for conspiracy and accepting a bribe, Mr. Martin was Inspector of Police in Erie, Pennsylvania. Immediately following his arrest, Mr. Martin made a complete confession and from that point on cooperated to the fullest extent with the office of the District Attorney of Erie, Pennsylvania. He testified at the preliminary hearings, before the Grand Jury and at the two trials of the Defendant, Stanley Schwartz. Subsequently, Mr. Martin pleaded guilty and was sentenced by President Judge Elmer L. Evans from one to two years in the Erie County Prison. He began that sentence on January 6, 1955. His institutional record has been excellent, as indicated by letter in your file from Jay Sherman, Warden of the prison. In May of 1955, a petition was presented on behalf of John J. Martin to your Honorable Board, and I appeared before the Board on June 24, 1955. The petition for Commutation of Martin's sentence was refused by your Honorable Board early in August.

"In asking for reconsideration of Martin's petition, I am asking the Board to commute the sentence only to the extent that he can be home with his wife and children for Christmas. Mrs. Martin, on June 24, 1955, underwent serious surgery and is now in the process of recuperation. Having her husband home with her and the children would aid considerably in her recovery.

"I am asking the Board to reconsider Mr. Martins' application for the following reasons:

"1. In discussing the matter of Martin's incarceration with President Judge Elmer L. Evans, the sentencing Judge, Judge Evans told me that he would in no way oppose the commutation of Martin's sentence as requested; that he believed from his observation of Martin during his incarceration in the Erie County Prison that Martin had been completely rehabilitated. Further, that he believed John J. Martin since his arrest had done everything within his power to make amends for his crime. Judge Evans advised me that I was at liberty to communicate his view on this matter to the Board, and that if he were contacted by a representative of the Pardon Board he would tell them the same thing.

"2. That a number of the other Defendants in the so called bribery case have had their sentence commuted.

"3. That three Defendants, who were sentenced from 11½ to 23 months to the Erie County Prison were released in July of this year after serving a little more than six months.

"4. That two defendants were only recently sentenced, received a sentence of 4½ months to one year.

"Therefore, Mr. Hean, I am asking that the Board reconsider the Petition of John J. Martin, either on the basis of this letter or if necessary a rehearing. I believe the attitude of the sentencing judge and his appraisal of the rehabilitation of the prisoner entitles him to some consideration. I am asking only that the sentence be commuted so that he can spend Christmas with his family, as his minimum sentence expires January 6, 1956, this would mean commutation of approximately one month.

"Thanking you, I remain

"Edward H. Carney"

BY SENATOR SCOTT:

Q What is the date of that letter, sir?

A The date of his letter is October 6, 1955.

BY SENATOR YOSKO:

Q When was he actually released from prison?

A The precise date, I do not know. I can give you the date when his sentence was effective.

BY CHAIRMAN TOMPKINS:

Q Let's see that pack of communcations. the whole thing he has in his hand.

A I would like to read the letter from Judge Evans backing up this statement.

Q Are there any communications prior to October 6?

A I have no record of it, Mr. Tompkins.

Q Did you write to Carney?

A Not to my recollection, unless it is in the file. I would have—I would have no recollection of it, Mr. Tompkins.

BY SENATOR YOSKO:

Q Is the letter from the judge you just mentioned related to John J. Martin?

A Yes sir.

Q And it is related to that letter from the attorney for reconsideration?

A Yes sir.

Q Well, will you read that?

A "Judges' Chambers

"Sixth Judicial District of Pennsylvania

"Elmer L. Evans, President Judge"

Board of Pardons—he addressed it to the "Board of Parole." It should be Board of Pardons.

"Commonwealth of Pennsylvania

"Harrisburg

"Gentlemen:

"A short time ago Attorney Edward H. Carney spoke to me about my attitude with respect to Police Inspector Jack Martin's application for release prior to the expiration of his minimum sentence on January 8, 1956. Martin was one of the collectors and participants in the bribery operation going on in this city and most culpable in that respect. After fifteen minutes of questioning, however, he admitted his full part and was very instrumental as a witness in clearing up the entire matter. For that reason we extended leniency to the extent of permiting him to serve at Erie County Jail and for a six months shorter period on his minimum sentence.

"He is the only one of those convicted who seems to show any remorse with respect to any phase of the matter except being caught and has behaved well.

"If you contemplated releasing him at the expiration of his minimum period, January 8th, I would see no reason for refusal to allow two weeks further reduction in order that he might be home for Christmas.

"Very truly yours,

"Elmer L. Evans"

BY SENATOR YOSKO:

Q All right, are there any other letters for or against the commutation of his sentence?

A I would have to look over the file, Senator, to answer that.

MR. KOHN: Here is all of them. That is his original letter, the original letter of the Judge on the May application for June hearing. Do you want that read?

BY SENATOR SCOTT:

Q What was the date of that last letter that you read?

A October 14, 1955.

BY CHAIRMAN TOMPKINS:

Q What happened as a result of those two letters?

A What did you say, sir?

Q What happened as a result of those two letters?

A It was reconsidered and he was recommended for a commutation before he had spent the complete one year and one-half.

Q Now, Mr. Hean, I want to clear up something in my own mind here and perhaps for the other members of the committee. In the case we had before us the other day, a new application had been filed and you advised the attorney for the applicant that a rehearing should be in order and a formal application for a rehearing was filed. Now do you or do you not require formal applications for rehearings and reconsiderations?

A You mean a formal application? Talking of this, this is what we call a formal application.

Q I was not talking about that application. I am talking about applications for rehearing and reconsideration.

A Applications for a rehearing are informal in the sense it is a letter written by the attorney or the applicant himself, requesting that his application be reheard or reconsidered by the Board.

CHAIRMAN TOMPKINS: I mean the McSorley case. Didnt' they file a formal application for a rehearing?

REPRESENTATIVE LOPRESTI: He sent it back, Mr. Chairman. He sent it back to him, if you recall.

CHAIRMAN TOMPKINS: Not for the rehearing, no. He sent the original application back, but not the application for a rehearing.

THE WITNESS: That was an informal petition.

BY REPRESENTATIVE BELL:

Q Mr. Hean, are you familiar with RULE VI (e) of your own Board which reads under "Rehearing Cases:

"In hearing applications the forms with the exceptions of Questions 1, 18, 19, 20, 21, 22, and 23 must be substantial copies of original application."

A That is where they formally put in this sort of a paper.

Q Does this not apply to all rehearings?

A No, sir, the rehearing that you have reference to is if in, we will say, September of 1956 Thomas W. Flatley had filed again, he would use substantially the material as outlined in the Rule.

Q In order words, you have two types of rehearings?

A We have.

Q Who determines into which category an applicant falls?

A The question of determining is the year interval.

ATTORNEY GENERAL McBRIDE: It is what?

THE WITNESS: The year interval.

BY REPRESENTATIVE BELL:

Q In other words, if you file before the year is out, you get a different treatment than if you follow the Rules?

A That is right, but there is one exception, Mr. Bell. When he files one year after, he automatically is entitled to it without any ruling by the Board. If he files prior to the year before it has elapsed, the Board then must pass on whether or not they will hear it.

Q All right, in this case who ordered that the rehearing rules be waived?

A Well, it was not exactly waived, but they granted a petition for hearing prior to one year.

Q Who is they?

A The Board of Pardons.

Q Who on the Board of Pardons?

A The four members.

Q Now, Mr. Hean, following the refreshing of your memory with this file, earlier do you recall a question asked by our Counsel concerning whether or not all this procedure in this present case, the Martin case, followed a conversation held between Mr. Carney, the attorney, the Lieutenant Governor and yourself? Do you remember that question?

A I remember the question.

Q Now do you, at this time, deny that on October 4 there was such a conversation?

A I have no recollection of attending any conversation with the Lieutenant Governor in the presence of Mr. Carney.

Q But you do not deny that it could have taken place.

A It could have happened.

BY MR. KOHN:

Q Will you read to the Board the interdepartmental letter sent by you requesting the Board of Pardons to vote on a rehearing? Give us the date and contents thereof.

A On October 25, 1955 there was circulated among the members of the Board a request for a rehearing in the matter of John J. Martin.

Q All right, let's stop there just a minute. What brought on that request for another rehearing? Is there anything in the files which—

A I have nothing in the files that I recall.

Q In other words, there was not any request for a rehearing?

A There was a request here which I read.

Q That was dated October 6.

A Yes sir.

Q It was refused on October 4 according to your interdepartmental letter.

A Well, it could not have been refused on October 4 when the request was made October 6.

Q Read the memorandum.

A "A request for rehearing was circulated on October 4." That I do not have in the file. Where it got to, I do not know, Mr. Kohn.

BY SENATOR SCOTT:

Q Is there anything in the file—I think I asked you this before—to subtsantiate the circulating of that petition of October 4?

A There is nothing in the file, no.

Q I mean a request by anybody that such a—

A There probably was, and it is not in the file. Where it got to, I do not know but it was refused.

BY MR. KOHN:

Q It was refused on October 4 and he in his letter says that he is now herewith submitting a letter for a rehearing as per conversation with you and Lieutenant Governor Furman. That must have taken place before the date of October 6.

A It probably could have.

Q So the Board was considering the petition as to whether or not to grant a rehearing previous to the letter?

A I do not know whether I am misinterpreting my position as a witness to get into a discussion with Mr. Kohn. However, the petition for a rehearing, dated October 25, was backed up by a letter from Mr. Carney and a letter from President Judge Elmer L. Evans, the sentencing judge.

SENATOR YOSKO: Mr. Kohn, do I understand that what you are trying to prove here is irregular procedure?

MR. KOHN: I am only trying to prove the facts as they happen, Senator Yosko.

SENATOR YOSKO: I know, but the facts have got to prove something.

MR. KOHN: Well, the facts prove that there was a conversation according to the statements in the file between the attorney for the applicant, Lieutenant Governor Furman and Mr. Hean in which they advised him to file a letter asking for a rehearing.

The facts also show that on October 4, 1955, the Board had considered the application for a rehearing for which there is no basis according to the files, and had refused it. Now that is what the facts show.

THE WITNESS: Then the Board reconsidered it, based on a formal letter from Mr. Carney, backed up by a request from the President Judge, the sentencing judge of Mr. Martin, and then we granted it. I have the note here.

SENATOR YOSKO: What you are trying to prove is that they took some sort of action without an application being filed?

MR. KOHN: I am only putting in the record as to what the record shows. You will have to decide how it came about, because there is no proof as to how that second rehearing came about.

SENATOR YOSKO: Then I go back to what I said before. Are you trying to prove irregularity in procedure?

MR. KOHN: According to Mr. Hean, there is no regularity in procedure, so I cannot prove any regularity or irregularity. He says we can take it up when we want to or any way we want to and that is what we did.

SENATOR YOSKO: What is the point that you are trying to get across?

MR. KOHN: How the rehearing came about and what the results of it were.

THE WITNESS: I think this is how the rehearing came about and I have the documentary evidence. I do not have the refusal of October 4.

CHAIRMAN TOMPKINS: Well now the question that is in my mind, I do not know whether I am anticipating our Counsel. I think maybe our committee here might be confusing the program of our Counsel. I think maybe we ought to let him proceed to try and develop what he has in mind and then we will ask questions afterward.

MR. KOHN: I would appreciate that because really it does throw you off from what you want to do.

SENATOR YOSKO: Mr. Kohn, I would prefer that kind of procedure, too, if you would present the facts in their proper sequence and start with one case and finish it and then go on with the next. There are three cases involved here and as I said before, we are jumping around from one to the other and it makes Mumbo Jumbo testimony here.

MR. KOHN: Maybe you should recognize, Senator Yosko, that these three cases are all intermingled here. They are all conspirators in this thing.

SENATOR YOSKO: Well maybe they are, but you can certainly take each one, treat each one separately.

SENATOR SCOTT: I think, Mr. Chairman, that what has been brought out here is that there are three cases, Flatley and Martin, and now he is concentrating on the Martin one. I think that is perfectly O.K. but now go ahead on the Martin one. Let's bring that out.

BY MR. KOHN:

Q Previous to this time had Judge Evans written another letter on the original application in which he recommended Martin?

A I would have to look at the file, Mr. Kohn. Yes, I have a photostatic copy here of a letter which was addressed to the Board by Elmer L. Evans, President Judge of the Sixth District, dated May 27, 1955. That was prior to the hearing in June of 1955. Shall I read the entire letter?

Q Whatever the Board wants. I just asked whether or not the judge recommended commutation for Martin at that time.

A I have a marked phrase here if the Board would care to hear it.

CHAIRMAN TOMPKINS: Give us the information from it.

THE WITNESS: May I read the third paragraph?

SENATOR YOSKO: Read the whole letter.

CHAIRMAN TOMPKINS: Read the whole letter, the date of it, who from and to whom.

THE WITNESS: May 27, 1955 from President Judge Elmer L. Evans.

"Re: John J. Martin and Edward Michalski

"I have before me copies of applications for clemency filed by John J. Martin and Edward Michalski.

"These men were among approximately twenty who last fall either pled guilty or were found guilty of paying and receiving bribery to permit the free and open operation of 'numbers racket.'

"Before sentencing any of these men, the three judges met to consider the extent of each defendant's complicity and his prior record of behavior. Each judge then with this information entered sentence, which, as you will note by examining many of the applications for clemency now before you, varied somewhat. I have no recommendation to make except that if the board recommends commutation in one case it may be constrained to take similar action in others.

"It is true that although John J. Martin received a one-third share in the bribe money known to have been received, he did after his arrest confess and cooperate

at the preliminary hearings as well as before the grand jury and the petit jury. He received as a result of this cooperation a sentence of six months to a year less than other receivers of bribes.

"Dr. William D. Loose has written me a letter that Mrs. Martin is under his care for the treatment of a tumor involving the right lung and that surgery to remove this tumor will be used in 'the very near future.'

"Whether or not this recent development should receive consideration, is a question I would prefer to leave with the board."

Signed, "Elmer L. Evans"

BY MR. KOHN:

Q Now there were additional letters, were there not, from Doctor Loose, William D. Loose, dated June 11, 1955?

A There was.

Q And letter dated June 10 from Herbert T. Foster?

A Yes.

REPRESENTATIVE LOPRESTI: Who is Herbert T. Foster, please?

MR. KOHN: Doctor William D. Loose was the one that operated on Mrs. Martin.

REPRESENTATIVE LOPRESTI: No, I asked you, who is Foster?

MR. KOHN: He was the inspector of detectives and former head of the vice squad in Erie. There is a letter from Frank G. Hoetzel, Inspector of Police, dated June 20, 1955.

CHAIRMAN TOMPKINS: Are these all in relation to the Martin case, Mr. Kohn?

MR. KOHN: Yes, these are all in relation to the Martin case. There was a letter from Ralph Hecht, Fraternal Order of Police, in which he recommends Martin very highly.

There was a letter from the Erie County Tuberculosis Hospital, sent by Doctor R. S. Anderson, to Doctor M. Zeltzer, of Erie, in regard to the condition of Mrs. Mary Martin.

There was also a letter from the warden of the jail, dated June 6, 1955.

In spite of all these letters, there is nothing detrimental in the file on his application of October 4 which was turned down unanimously, is that correct?

THE WITNESS: That is correct.

BY MR. KOHN:

Q Isn't it a fact that Martin served more time than any of the other persons whose sentences were commuted?

A We have the dates when he was committed to the Erie County Prison and we have the record of his commutation.

ATTORNEY GENERAL McBRIDE: He served two days more.

BY MR. KOHN:

Q Martin and Schwartz both got out in less time.

A Flatley got out in eleven months, five days.

Q And Martin was a Commonwealth witness in two cases and against all the other defendants?

A The record shows that he was a Commonwealth witness, yes.

Q They held that against him in spite of the fact that everybody else recommended his release?

A That I could not answer.

Q What was the basis for their refusal of the first two applications?

A I have no record of it, Mr. Kohn.

Q Do you have any recollection of it?

A I have no recollection of it.

BY SENATOR SCOTT:

Q Nothing on the June refusal?

A No, all I have, as Mr. Kohn has inspected this book, I have four noes. That is the June decision.

BY MR. KOHN:

Q And Martin in this case only got one to two years?

A That is correct.

Q And what did Flatley get?

A One and one-half to three and Schwartz was given one and one-half to three years.

Q And they both served about two or three days less time?

A Approximately.

Q And how many applications of Flatley were turned down, if any?

A Let us see—

SENATOR SCOTT: Are you finished with Martin now, Mr. Kohn?

MR. KOHN: Yes.

ATTORNEY GENERAL McBRIDE: Did you put in the record what the district attorney—

MR. KOHN: I am—

ATTORNEY GENERAL McBRIDE: I was just going to ask, I have not heard anything about the district attorney's recommendation in connection with Martin.

MR. KOHN: There might be some additional questions. You can't just—

REPRESENTATIVE LOPRESTI: We have had a list here now of about sixteen letters that were written on Martin and the most important one, in my opinion, was from the district attorney. I have not heard that and I want to know if there is such.

SENATOR SCOTT: I think it is well taken. Was there a letter from the district attorney in the Martin case?

MR. KOHN: In the testimony, I can read that if you would like to have it. He was definitely in favor of Martin. I think now that it has been asked, I think I ought to read it. May I read this into the record?

SENATOR SCOTT: There was no communication from the district attorney, only what he said at the hearing?

MR. KOHN: No, he appeared.

SENATOR SCOTT: And this was what hearing?

MR. KOHN: This was the hearing on June 22-23-24 of 1955, before the Board of Pardons, and this was the testimony that was taken. May I read it into the record?

CHAIRMAN TOMPKINS: Yes.

MR. KOHN: "MR. McLAUGHLIN:"—who was the district attorney at that time—"If the Board please, this type of case is one of the things that makes it tough to be district attorney. Jack Martin was a good policeman. I worked with him on many, many cases. He was the type of policeman you could call up in the middle of the night and there was no question about punching the time clock, he would go out of bed and get whatever information you wanted. And when he was arrested, brought into my office, he immediately told us the whole story.

"I think that Mr. Carney has not told you the whole story in that respect. Maybe he didn't know it.

"After Tom Flatley was elected mayor, there was a meeting at the home of Stanley Schwartz, who is a political leader there, and Jack Martin, Tom Flatley, Stanley Schwartz, and a fellow by the name of Henry Sociate,"—S-o-c-i-a-t-e—"sat down and said that they were going to collect so much money from the gamblers who were operating in the City of Erie. At that time Jack Martin told them that they couldn't get away with it. If they did, they would get caught, get into trouble, and that he didn't want any part of the thing.

"He didn't have anything to do with the thing for about a year. When, as Mr. Carney told you, he was called into the mayor's office and told that he was supposed—going to be dealt in on the deal. That Hank Sociate has been collecting the money, but Sociate got into some trouble and they didn't want any more of him, so they told Martin it was his job to go around and see these various gamblers and collect the money.

"There was no question of Jack Martin going to the gambler's and making arrangements, the arrangements were already made. All he had to do was show up once a month and they handed him the money.

"He and Swartz, who collected from some of the other gamblers, then took the money to the mayor's office, laid the money on the mayor's desk where it was divided three ways, where each one would take their portion. It ran about $1500 $1600 a month.

"Jack Martin was a good policeman, and when he was arrested, he again became a good policeman. We had no trouble in securing a confession from him. He testified very readily any time we called upon him to do so.

"I would like to point this out to the Board, that about a week after he had been arrested and after he had signed his confession, he came into my office and said, 'Well, at least I can sleep again. I haven't been able to sleep since this thing started.' And I think he was telling the truth.

"I ask the Board to take into consideration the way he has cooperated with the district attorney, the fact that even though he became a bad policeman when the chips were down, he became a good policeman again.

"MISS BLATT: How many police officers were involved in this?

"MR. McLAUGHLIN: Mr. Martin was Inspector of Police and the other policeman was a man who was up before you, Edward Camilli, partner of Russel Verga. The two of them served on the vice squad. Verga collected money and turned it over to me, Camilli did not know that half of the money was being paid to the district attorney's office. He kept his and spent it.

"MISS BLATT: The other one you mentioned, is he here?

"MR. McLAUGHLIN: He is up before you today.

"MISS BLATT: The one you said initiated the arrangements?

"MR. McLAUGHLIN: That was the mayor, Thomas Flatley. He is not before you. Stanley Schwartz—

"MISS BLATT: The police officer you said—

"MR. McLAUGHLIN: Henry Sociate, who was a political figure. The only two are Edward Camilli and Jack Martin.

"MR. FINNEGAN: What happened to Verga?

"MR. McLAUGHLIN: Verga was working for me. We knew all the time this money was being collected. He was turning the money over to my office all the time. We had a running account. As a matter of fact I could show you day by day just who he talked to and how much money he got from each one and what their conversation was. We have recordings of the conversation.

"MR. COHEN: Now, what reaction do you think would be on the general public and the other police officers if here an inspector of police is helping what apparently was a well organized shakedown racket, and after a minimum of approximately five months you let that man out?

"MR. McLAUGHLIN: Jack Martin was a very popular man. He was very well liked, I think that most people feel that he went wrong and they feel sorry that he did. I don't believe that the people in the City of Erie look upon him as a hardened criminal in any manner.

"There may be some people who would look down their noses at him, there is no doubt about the fact that he was wrong, but nevertheless I am looking at it from the standpoint of what I know about the man myself, and not public opinion.

"I know he was a good police officer and I know he became a good police officer and he was a great deal of help to me after the arrest was made. And I don't believe—it is not—what do you put people in jail for? Punishment, rehabilitation and example to others.

"There is no question of rehabilitation. I don't think Jack Martin will ever get in trouble as long as he lives. He has been punished at least in his own mind sufficiently. The only question is whether it is bad as an example to others to let him go after such a short time. Because there is no question of rehabilitation. He needs no further punishment.

"MR. COHEN: I am thinking of the effect that would have on my local police. They would say, 'he was getting cut into one-third of the take' and the reaction of the local police would be that he got out in five months.

"MR. McLAUGHLIN: Well, I agree with you as far as an example to others, It is not advisable to let him go. But from the other two standpoints, the standpoint of punishment and rehabilitation, there is nothing to be served by keeping him. It is only as an example to others that would be any purpose of keeping him in jail any longer.

"MR. FINNEGAN: Now did Verga get involved with it?

"MR. McLAUGHLIN: He was appointed to the vice squad together with Camilli. Jack Martin was Inspector of Police and was their superior officer. Now there were two separate rings of payoffs here. Verga and Camilli were getting money from the little operators, some of which went to Jack Martin, but a very small part of it. Usually Verga and Camilli split it up between the two of them. Then there was the larger operation, the mayor and Stanley Schwartz, where they were getting money from the big operators. They were geting $300 or $400 a month from some of these operations, while Camilli and Verga were getting only $25 and $50 a month from these small operators.

"So there were two separate rings. Jack Martin was getting paid from the big shots, the guys who were

paying $400 or $500 a month, and also a small cut from Verga and Camilli from some of the small operators.

"MR. FINNEGAN: How did Verga get in this business? You say he was working for you?

"MR. McLAUGHLIN: Well, he was a policeman. I could never understand why gamblers chose to pay him, because about four or five years ago one of them tried to bribe him and he made an information against the guy and the fellow was tried and convicted of attempted bribery. So, why they picked him up and thought they would pay him off, I can't figure out.

"MR. FINNEGAN: Did he from the beginning tell you that he was taking this money?"

SENATOR SCOTT: Mr. Chairman, I think Mr. Kohn has read enough of it. I think we can get the import of the communication from the district attorney that he was in favor.

BY MR. KOHN:

Q Now at that time Martin was turned down, was he not, in June of 1955?

A Yes.

Q And Camilli was granted—look at your record.

A I will have to look at the record.

SENATOR SCOTT: Now, Mr. Kohn, you mentioned the name of Camilli being granted and I do not have anything on my notes about Camilli.

MR. KOHN: That is the policeman on who I just read the records.

SENATOR SCOTT: Was he involved in this thing?

MR. KOHN: He was involved; he was the other policeman.

SENATOR SCOTT: Was he sentenced?

MR. KOHN: He was sentenced.

SENATOR SCOTT: I do not have a thing before me on that name at all, Mr. Kohn.

MR. KOHN. It is only the record that is shown in the testimony referred to by Mr. McLaughlin as being the other policeman. There were two policemen. Martin was the head of the two of them; Camilli and Verga were the other two policemen who were collecting money. Verga was in the employ of the district attorney and worked with—

SENATOR SCOTT: Are you trying to make a comparison that one had his sentence commuted and the other did not?

MR. KOHN. At the same hearing one had his sentence commuted.

SENATOR SCOTT: Then I think we ought to have the background on the other one.

Mr. KOHN: That is what Mr. Yosko objects to.

SENATOR YOSKO: I am not objecting. I am asking you to give us the cases separately and give them to us in their proper sequence.

CHAIRMAN TOMPKINS: All right, now just a minute. How many cases altogether were involved in the Erie bribery cases which found their way before the Pardons Board?

SENATOR YOSKO: That is it.

MR. KOHN: Eighteen.

SENATOR YOSKO: Eighteen.

MR. KOHN: Eighteen and seventeen commutations, but I am showing the commutations at a different time.

CHAIRMAN TOMPKINS: Well, now I think we ought to know when these eighteen cases reached the Pardons Board, if they all reached at the same time or at different times, and get the breakdown on that. Then as we refer to these several cases, we will have knowledge of what you are speaking about.

MR. KOHN. In order to save time on the record. we have made a compilation of that, Your Honor. I can give them to you if you would like to follow them but I am not going to take all the cases apart.

SENATOR SCOTT: Are all the names of these individuals going to come before us at one time or another?

MR. KOHN: No.

SENATOR SCOTT: Is the name Camilli going—is that going to come before us?

MR. KOHN: Yes, but I wanted to finish with these first; of course, what happened to Martin's case, what happened to Flatley's case, what happened to Schwartz's case, to show there was no basis for the action of the Board and the difference in the situations.

SENATOR YOSKO: Mr. Kohn, do you have a copy of this summary here for each one of us?

MR. KOHN: No, we can work one up for you.

SENATOR YOSKO: Well, I understood when we had one of our meetings that data that you would prepare, you would prepare in six or seven copies so that each of us would have it before us, so that we would know what we were doing.

MR. KOHN: Now I did not understand you that way. I understood you, Senator Yosko, that the Erie cases would be definitely investigated with the other cases.

SENATOR YOSKO: Well that applies to all cases. Now if we have some of this stuff before us, we will be able to dispose of it more intelligently than if we come in here cold without any background at all, and that is the reason for all of the confusion this morning. You may know but we do not know.

MR. KOHN: Do you want copies of it? Any other persons that you want to have copies, we will be glad to give them to you.

SENATOR YOSKO: Yes, I would like to have copies of it. I would like to know what is before us. I would like to have a little bit of background on it.

ATTORNEY GENERAL McBRIDE: Exhibits or a list of the cases you are going to hear?

SENATOR YOSKO: Well, if we would even have that. Up until this point I did not know there were eighteen cases involved here. Now there are eighteen and yet we have only concentrated on two or three.

SENATOR FLEMING: Mr. Chairman, Counsel suggests a five minute recess which I think we should grant to get some of these things straightened up.

CHAIRMAN TOMPKINS: We will have a five minute recess, but we want to come back promptly because we can only stay here until 1:30.

(After recess).

CHAIRMAN TOMPKINS: Proceed, Mr. Kohn.

MR. KOHN. At the request of Senator Yosko, I have given him a list of the cases and I would like to read all the defendants who are involved in the bribary cases who appeared for commutation of sentence before the Board of Pardons. I will read the charges, sentence, date sentenced, date released and time served.

CHAIRMAN TOMPKINS: Now where was this information obtained?

MR. KOHN: This is from the files of the Pardons Board.

Adiutori,—A-d-i-u-t-o-r-i—six charges of bribery, two charges of conspiracy; sentenced to one and one-half to three years; date sentenced, January 10, 1955; date released, 12/15/55; time commuted, eleven months and five days.

Carl R. Alessi, eight charges of bribery, two of conspiracy; stood trial, got one to two years; date sentenced, 1/6/55; date released, 10/6/55; time served, nine months; commuted.

Edward Camilli,—that is the man that was just referred to as being the other policeman involved—six charges of bribery, four of conspiracy; one to two years; entered a plea; sentenced, 1/6/55; released 10/6/55; commuted to nine months.

Ray Czulewicz,—C-z-u-l-e-w-i-c-z—four charges of bribery, one of conspiracy; had a previous record; got one and one-quarter to two and one-half years; sentenced on 1/6/55; date released, 12/15/55; commuted to eleven months, nine days.

Arthur Damore, six charges of bribery, one of conspiracy; previous record; one to two years; date sentenced, 1/6/55; date released, 10/25/55; commuted to nine months, nineteen days.

Dan DiTullio, five charges bribery, one of conspiracy; got one to two years; sentenced, 1/10/55; date released, 10/10/55; commuted to nine months.

Mike Dominick, five counts of bribery, two of conspiracy; entered plea; got one and one-quarter to two and one-half years; date sentenced, 1/6/55; date released, 4/6/55; he appeared before the Board of Pardons and was refused, to serve his whole sentence.

ATTORNEY GENERAL McBRIDE: Mr. Kohn, it is 4/6/56, isn't it?

MR. KOHN: You are right.

ATTORNEY GENERAL McBRIDE: He served his whole sentence. He is the man who had a criminal record.

MR. KOHN: Yes sir, his whole one year.

Thomas Flatley, four counts of accepting bribery and conspiracy, and one violation of oath of office; got one and one-half to three years on a plea of guilty; date sentenced, 1/6/55; date released, 12/15/55; commuted to eleven months, nine days.

If you will recall, the record shows that the commutation was originally for one year and it was reduced to eleven months, nine days without any other reason in the record. I might state while I am going over these that the District Attorney of Erie County has been very kind to make this up for me and that where you will find there might be five or six charges of bribery, they will not have been convicted on that many; only convicted on the cases which were called and sentenced on cases when called and plead guilty.

Leo Kaminski, six counts of bribery, one and one-quarter to two and one-half years; date sentenced, 1/6/55; date released, 12/6/55; that was commuted to eleven months.

John Koehler,—K-o-e-h-l-e-r—seven counts of bribery two for conspiracy; one and one-half years; date sentenced, 1/6/55; date released, 10/6/55; commuted to nine months.

James LaJohn,—L-a-J-o-h-n—six counts of bribery, one of conspiracy; had a previous criminal record; one to two years; sentenced, 1/6/55; date released, 10/6/55; sentence commuted to nine months.

John Martin, five counts of bribery; received one to two years; date sentenced, 1/6/55; plead guilty; date released, 12/17/55; his sentence was finally commuted to eleven months, eleven days.

James Merlino,—M-e-r-l-i-n-o—five counts of bribery, one of conspiracy; previous record; one to two years; date sentenced, 1/6/55; date released, 10/6/55; commuted to nine months.

Edward Michalski,—M-i-c-h-a-l-s-k-i—five counts of bribery, one of conspiracy; stood trial; received nine months to two years; sentenced, 1/17/55; released, 8/22/55; commuted to seven months, five days.

Joseph Rotunda, three counts of bribery, one of conspiracy; previous record; one to two years; date sentenced, 1/6/55; date released, 10/6/55; commuted to nine months.

James Salamone,—S-a-l-a-m-o-n-e—nine counts of bribery; got one and one-half to three yerrs; date sentenced, 1/6/55; released, 1/6/56; and the sentenced was commuted to one year.

Stanley Schwartz, three counts of bribery, one of conspiracy; received one and one-half to three years; date sentenced, 8/8/55; date released, 8/8/56; commuted to one year.

Those are all the cases.

CHAIRMAN TOMPKINS: Are those all the cases involved in the bribery cases?

MR. KOHN: Yes, that is all except one other that Mr. Evans mentioned, Anthony Tonti, who was convicted of bribery on January 6, 1955 and received one to two years; commuted to nine months.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, it is proper to say that there were other defendants who were sentenced but who never came before the Board of Pardons.

CHAIRMAN TOMPKINS: These are cases that reached the Pardons Board.

REPRESENTATIVE BELL: Of the eighteen that reached the Board of Pardons, were seventeen given commutations?

MR. KOHN: Seventeen given commutations, and one man, Mike Dominick, served his whole sentence. He was up before the Board once and he was refused and did not come back.

BY MR. KOHN:

Q Now you referred to Stanley Schwartz as having stated in there that he used all the money for political purposes. Did the Board make any check to see whether or not he reported any money collected by him on the political purpose requirements under the Act of Assembly?

A I have no such recollection.

Q Were the facts before the Board that he did not so do?

A I have no such recollection.

Q Were there any facts in the file that showed he did not report it?

A Not that I could find.

Q Did you look at the investigation made by the parole officer?

A We looked at that.

Q Would you say it is not in there?

A I would not say that until my memory was refreshed.

Q You further had with that particular file—and I think copies to all members of the Pardons Board—a brief or an appeal to the Superior Court on Stanley Schwartz, did you not?

A Yes sir

Q And in there was there any place that he said he used this money for political purposes?

A I have no recollection, because I did not read the record.

Q Do you know if the Board read the record?

A I could not answer that. They had it available. If they read it, it would be beyond me, Mr. KOHN.

Q Were you present when the deliberations were had before the Board?

A I was

Q And was it agreed by the Board that Stanley Schwartz was the instigator and head man in this conspiracy?

A I heard no such statement to my recollection.

Q That was not even discussed, was it?

A I would not like to say that because I have no recollection and no notes on it.

Q Did the Board consider certain information that it got from other sources in regard to the status of—

A The comments before the Board, I have it here to refresh my memory. A "Parole Report states Schwartz was the political boss who ran the Mayor. He used his political power to his own advantage." I think that is from the parole report.

Q In stating it on the report it says: "However, he is known as a political boss who wields some influence for his own political gain with no thought of public welfare." Is that what it says?

A That is what the report said from the parole agent that he read there.

Q Now from your recollection as to the action of the Board in that case how did they vote on it, each particular individual?

A You are referring to Stanley Schwartz? We had three "yes" for one year.

Q Three "yes." Who opposed?

A Nobody opposed.

Q Who did not vote?

A I believe Mr. Harner was absent on account of illness. Now let me check on this. There were only three members sitting. I have a record here somewhere, noting that Mr. Harner was absent on account of illness. Yes, the day on which these cases were heard, "February, Harner ill; absent the entire day."

Q How did they vote on Flatley?

A Three "yes," one year; one "no."

Q Who was the "no"?

A Mr. Cohen, Mr. Herbert Cohen.

Q He was the Attorney General at that time?

A Yes sir.

Q In spite of the vote, Governor Leader did commute the sentence, did he not?

A Yes sir.

A Did the Board check the statement of the Parole Officer in regard to the way the facts in the case were as to the statement of the applicant, Stanley Schwartz in the application?

A The application form was before each member of the Board and that parole report which you just raised was before each member of the Board. Whether they read it or not, I do not know.

Q There is a great deal of discrepancy between what he says in his application and what this says, is there not?

A I could not answer that question honestly until I would refresh my memory with respect to what the parole agent said.

Q Did they consider the confidential report by the parole agent?

A They invariabily consider. Whether they did in this particular case, I was not present. What any one of them did—

Q Was Martin's sentence commuted after Schwartz's sentence was commuted or before?

A Let's see, Schwartz came before the Board in February of 1956 and Flatley was first heard in September, and then later on he was left out. He was left out one year from the date of his commitment.

Q And you may state whether or not the district attorney strongly opposed the granting of a commutation in the Schwartz case?

A If I so stated in the Reasons, that is what he did.

Q That is so stated in here, is it not?

A Yes sir.

Q And you so state that: "The trial judge, The Honorable Elmer L. Evans, stated that this applicant should serve as long a time as one of his accomplices, to wit: Thomas W. Flatley." Is that correct? Did you say that?

A Yes, I said that.

Q And did Flatley receive as long a sentence as Schwartz?

A Well now, Flatley served about eleven months, five or six days.

Q Flatley received the same sentence as Schwartz, did he not?

A Yes, Schwartz was given one year and he was left out as I recall in around August or September of 1956.

Q All right now on what did the Board base their conclusion leaving Schwartz, the ringleader, out?

A The general attitude of the President Judge who somewhat felt that those who were equally guilty should serve a similar time.

Q And the Board interpreted the letter of the judge as saying he should be left out?

A Well, I would not like to say that. You are asking me to speak for the Board, and please do not.

Q Weren't you there?

A Yes, but I cannot speak for the Board. What went through their mental processes is beyond my derivation.

Q Everybody opposed it, including the parole officer and the district attorney, except the people who wrote in letters here.

A What ever the records would disclose.

Q And you had quite a numerous file of letters here, did you not?

A It would so appear, yes.

Q And did the Board take into consideration that according to the statement of the parole officer the fact that this man was a political leader, he could obtain hundreds of these letters?

A I heard no such remark as I recall. As far as I know there was no discussion as I recall as to the number of letters of recommendation or urging clemency. They were before the Board; they saw them.

Q Now in regard to Mayor Flatley, there was no opposition, was there, to his release?

A Well, the record would show that we have a rundown. I think you have it there which you read in there. Certainly the district attorney did not oppose it as I recall.

Q Isn't it a fact that Judge Evans told the Board he would withhold comment?

A That I do not recall unless I would see the letter, Mr. Kohn.

Q And there were a great number of letters in that file also?

A I recall that Mayor Flatley had quite a number of letters and petitions signed, if I recall.

Q In that particular file, will you refer to it?

A The Flatley—I have it here, sir.

Q One thing I would like to inquire about is how that feature article in the Erie Times came to be filed in there and whether or not it was considered by the Board?

A I do not think it was considered by the Board, but it struck me funny. In a threat—there was a threat made and then in the story about Tom Flatley—

Q By whom?

A There was a threat made according to the papers at the time it came up.

Q Did you file that copy?

A No, I did not.

BY CHAIRMAN TOMPKINS:

Q A threat, what about and to whom?

A Said to the Board that somebody was going to do something or other. I cannot quote it.

BY MR. KOHN:

Q What it said was that the Board prejudged the case before it came before the meeting of the Board, did it not?

A It was an article written in a newspaper that was opposed to Mayor Flatley and all those connected with him. It would not be sympathetic at all.

Q And this was a very sympathetic article?

A This was a sympathetic—

Q And you stated that the Board did not see the article?

A I have no recollection that they did.

Q Is it not a fact that a copy of that was put into each one's file?

A This one, I do not recall that it was.

Q Why is that filed with the official documents?

A We have newspaper clippings that we file from time to time and as we pick them up, we shove them in the file.

Q How do you explain the fact that you only file the ones that are favorable to the applicant rather than the other ones? What caused you to file this one?

A It is a good question but I have no answer for it.

Q Do you have any newspaper articles in the other files?

A Not to my recollection.

Q Now isn't it a fact that in the report received by the Pardons Board the statement was made that: "The weight of evidence brought out during the trial indicates that the money was not collected for political" purposes in the case of Stanley M. Schwartz?

A You mean was it brought out before the hearing?

Q Was it in the file?

A If the report so stated it.

Q Will you look at it?

A Yes, "The weight of evidence brought out during the trial indicates that the money was not collected for political contributions; it was collected from known gamblers and racket operators and could not be accounted for by political expenses." That is so stated in the confidential report.

CHAIRMAN TOMPKINS: Has Mr. Schwartz himself in his own application to the Pardons Board under oath stated that it was used for that purpose?

MR. KOHN: That is right. That is why I left him read paragraph 15 of the application.

BY MR. KOHN:

Q So that there was a great deal of discepancy in the statement of the parole officer and also the statements in the evidence on the trial of this case as set forth in the appeal to the Superior Court; that there was a variance between what he said in his application and the actual facts?

A That is correct; that is, there is a variance between what he said and what the parole officer said.

Q And also what Schwartz said in his testimony before the court which the Board had a copy of?

A There would be that difference, yes.

MR. KOHN: That is all I have at the present time.

BY REPRESENTATIVE BELL:

Q Mr. Hean, were you present when the Board discussed the Flatley commutation in executive session?

A I was.

Q What reasons did Attorney General Cohen give for disapproving the commutation of Mayor Flatley?

A If I were to answer your question, I would have to more or less guess and I could not give you a very accurate report.

Q I would like you to answer as accurately as your memory can—

A It is my recollection the Attorney General, Mr. Cohen then, was not inclined to be favorable toward persons holding official positions in city, State, county, or whatever elected or official position the man may be appointed or elected to. He was opposed to granting clemency. That is my recollection of his attitude.

Q And what was the attitude of the other three members in opposition to Mr. Cohen?

A Well, their vote would be indicative that they would not be.

Q Sir, I would like you to tell the Board what you recall of their conversation.

A I could not give you that very accurately, Mr. Bell, I am very sorry, except they were not in agreement with Mr. Cohen.

Q Do you recall whether or not there was any conversation as to political effects?

A No, not that I recall. If you are thinking of whether or not it would help one party or aid another party, I have no such recollection that it ever entered into the discussion that these men happened to be Democrats.

Q But you do not recall?

A I do not recall except bare recollection or memory.

REPRESENTATIVE BELL: All right.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Hean, did you have a letter from the judge in the Schwartz case?

A I believe we did, sir. Let me check before I give you an affirmative answer. The Stanley Schwartz file is before me.

SENATOR SCOTT: He testified to that, I believe.

REPRESENTATIVE LOPRESTI: No, I do not believe. Mr. Kohn referred to a letter which said that he would make no comment or something.

THE WITNESS: I have a letter here from Judge Elmer L. Evans with respect to Stanley Schwartz.

REPRESENTATIVE LOPRESTI: Yes, and I would like to have that read into the record as to his recommendation, if any.

THE WITNESS: This is dated "December 15, 1955

"Judges' Chambers
"Sixth Judicial District"
From "Elmer L. Evans, President Judge"
Directed to the "Board of Pardons" in regard to Stanley Schwartz.

"Gentlemen:

"I am quite sure your Board is familiar with the overall picture involved in the Erie scandal cases of October, 1954. Many of the mayor's friends insist that Schwartz was the instigator of the whole operation wherein for approximately a year and a half bribery was accepted to permit numbers and other rackets to continue in the City of Erie and also to arrest those not participating in the over-all coverage. Whether Schwartz is the ringleader I do not know. He testified that he used the money for one of the three factions in the Democratic Party and for political purposes only, but he did not file any returns as required by law from a treasurer so acting. No others on the receiving end of these bribes made any such representation, and we know that Soscia, the original collector, and Martin, the subsequent collector, kept their full shares for personal use. A large number of the defendants entered pleas, but Schwartz tried, on one of the bribery collections was convicted and later appealed to the Superior and Supreme Courts. Pending that appeal, he was tried at a subsequent term in connection with another collection, and the second jury likewise convicted him. New trial was asked in the second case, and it was held up pending disposition of the case on appeal. Every technical move was made to thwart justice as we see it, and most certainly in our opinion he should not be released at least until he has served as long as the Mayor, his chief accomplice."

Signed, "Elmer L. Evans."

BY REPRESENTATIVE LOPRESTI:

Q Now did he serve as long as the mayor?

A I do not have the precise date. I know Mr. Flatley, the mayor, served eleven months, nine days and Mr. Schwartz served about eleven months, one day.

ATTORNEY GENERAL McBRIDE: One year.

THE WITNESS: Approximately the same time.

BY REPRESENTATIVE LOPRESTI:

Q The recommendation of the judge was that he serve at least as long as the mayor?

A As long as the mayor. He served, as I have just been prompted, slightly more, about three weeks more.

MR. KOHN: He went to jail later. He did not serve any more time.

ATTORNEY GENERAL McBRIDE: Yes, Dave, one year he served and Mayor Flatley served eleven months, nine days.

SENATOR SCOTT: All right, what did Martin serve?

ATTORNEY GENERAL McBRIDE: Martin served eleven months, eleven days; two days more than Flatley.

BY SENATOR YOSKO:

Q I just want to make a brief statement and then ask you a question.

From what I have heard this morning, the facts that were given to us it is sort of a rehash of the whole series of cases. The Pardons Board was set up to pass on applications to either commute or refuse to commute sentences. I do not think we are here to question the judgment of the Pardons Board; whether it was good or whether it was bad is a matter of opinion. We are here to determine whether the judgment of the Pardons Board was influenced by politics or some other improper influence, and I want to ask you now whether you handled all of the applications that were filed with the Pardons Board in this series of cases?

A I did.

Q And from the time they were filed up until the time action was taken, do you know of any improper or political influence that was exerted on the Board that influenced their decision to either grant a commutation or refuse to grant it?

A I know of no such influence of any type.

BY SENATOR SCOTT:

Q Could influence have been exerted without you knowing about it?

A That is always possible. However, may I add to my statement that the action of the Board seemed to be in conformity with the thought of the sentencing judge, President Judge Elmer L. Evans, who I do not believe is a member of our political party.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Hean, can you prepare for us in each of the cases mentioned, a report indicating in which case the court and the district attorney made recommendations and what those various recommendations were?

A I believe that has been prepared.

ATTORNEY GENERAL McBRIDE: I hold it in my hand in penciled notation. The district attorney's comments I have typed here and I can give that to you now.

CHAIRMAN TOMPKINS: That was the district attorney's comments before the Pardons Board?

ATTORNEY GENERAL McBRIDE: Yes.

BY CHAIRMAN TOMPKINS:

Q Now, Mr. Hean, in the Martin case at least it appears as though there was a reconsideration of an application that had been previously filed and turned down, is that right?

A That would so indicate, Mr. Tompkins.

Q And in how many of the other seventeen cases did that same situation occur?

A I do not recall that. There may have been, but right offhand I do not recall that cases heard, we will say, in June were asked to be reconsidered at subsequent meeting of the Board during that year. I may be wrong on that.

Q What I am getting at is this, was the Martin case among all the eighteen cases that appeared before the Board the only one that was refused on the first application?

A That was refused for other reasons; that was refused on the first application, refused on or about October 4 for a rehearing. Then it was granted on or about the 25th of October for—then it was granted for a rehearing on or along about October 25.

Q Now in the other seventeen cases, were there any reconsiderations or were they all given action on their first application?

A Don't hold me too firm to my reply, Mr. Tompkins, without consulting the records, but my recollection is that they were acted on favorably in many instances and there was no request for a rehearing.

ATTORNEY GENERAL McBRIDE: Mike Dominick was turned down and no rehearing was granted.

CHAIRMAN TOMPKINS: Who is that?

ATTORNEY GENERAL McBRIDE: Mike Dominick.

CHAIRMAN TOMPKINS: Turned down and no reapplication?

MR. KOHN: I think the question, Mr. Tompkins, that you had was whether or not at the June 1955 session Martin was the only one that was turned down out of the number that was heard.

CHAIRMAN TOMPKINS: No, what I am trying to get at, Mr. Kohn, is this. I am trying to find out whether or not the Martin case was the only case which was given reconsideration.

THE WITNESS: That would show there. I can refresh my memory there on that.

CHAIRMAN TOMPKINS: Whether there were other cases that were turned down in the original instance than this one that you speak about and then were reconsidered at a later date.

THE WITNESS: I have some facts there that I have gotten together, if I may refresh my memory with them.

ATTORNEY GENERAL McBRIDE: Our recollection is that you are correct, Mr. Chairman. That is the only one.

MR. KOHN: No, that is not right. There are others.

CHAIRMAN TOMPKINS: I mean in the bribery cases now, not other cases.

MR. KOHN. The LaJohn case was reconsidered, I know.

THE WITNESS: That is No. 1060—1006 rather of June. Joseph Rotunda, Arthur Damore, who is the other one you have in mind?

MR. KOHN: James LaJohn, I know there were several of them.

THE WITNESS: My records here show No. 106-C was James LaJohn and the Board voted "yes" in nine months. That was not a reconsidered case.

MR. KOHN. I think you will find in the record it was.

CHAIRMAN TOMPKINS: These records speak for themselves, Mr. Kohn. We are trying to get the information from the witness.

ATTORNEY GENERAL McBRIDE: He is the man who was ill, isn't he?

THE WITNESS: I beg your pardon. He was sentenced on January 6, 1955, Mr. James LaJohn, and then his application was heard in March of 1955—did I say 1956? I meant January 6, 1955 he was sentenced from one to two years. Then on March 24, thereabout, he applied for a hearing and he was refused and then a rehearing was granted and heard in June of 1955, at which time at the rehearing the Board gave him clemency, reducing his minimum sentence from one year to nine months, yes.

CHAIRMAN TOMPKINS: Martin had also filed his original application in March, is that right?

MR. KOHN: You have it there.

BY CHAIRMAN TOMPKINS:

Q Now what other cases among the eighteen were refused on their first appearance before the Board?

A I would again have to go through the files here to pick out the ones that had been heard and then refused. I have the LaJohn case before me now.

CHAIRMAN TOMPKINS: As far as I am concerned, that is of some importance to me and I think to the Committee as to what action was taken by the Board on these eighteen cases. I think we ought to have a complete record of the eighteen cases.

If the General has a copy of it there, I think it should be made a part of the record in order to have all that information before us.

ATTORNEY GENERAL McBRIDE: I will tell you what I would suggest, Mr. Chairman. I have four different types of records. I would like to hand them to you and if either or any of them meet your requirements, then we would like them in the record also.

If there is a separate record that you want me to get made up for you, I will get that made up for you.

CHAIRMAN TOMPKINS: We will look these over, General, and see what we can do. We will return these to you.

ATTORNEY GENERAL McBRIDGE: All right, I will take them and give them to you then.

BY CHAIRMAN TOMPKINS:

Q I believe the letter of Mr. Carney,—isn't that his name—the attorney, indicated that he had spent an hour or an hour and a half with you and Lieutenant Governor Furman on October 4 or somewhere thereabouts. Now what was the import of his extensive visit with you at that time?

A Well may I answer it this way, Mr. Tompkins. It may not be just a "yes" or "no." I do not recall first ever sitting in with Mr. Carney and Lieutenant Governor Furman in a discussion of any of these Erie bribery cases, any one of them.

Q Well did you see Mr. Carney by himself?

A Mr. Carney may have dropped into my office asking as to procedure, which I very gladly gave him with respect to how to handle a petition for a rehearing and I no doubt gave him that information, that he should informally present a petition setting forth reasons why

he believed the Board should reconsider their action, and that came to our attention along in the latter part of October. That was my function in my conversation as I recall with Mr. Carney of Erie.

Q Well now, Mr. Hean going back to another phase of your records, are the Reasons for your granting commutations, are they available to the public at reasonable office hours for anybody who requests them?

A They are, they are as has been stated before, Mr. Tompkins. The previous two years—that would be 1955. in fact 1956—are now with the Clerk of the Senate and the Clerk of the House.

Q We appreciate that, Mr. Hean.

A That is public property.

Q From January 1957, however, until January 1959. according to your own statement, you will rehear 2,000 cases.

A Approximately that.

Q And if anybody wants to look at your records in connection with your Reasons for granting a commutation, are they entitled to see them?

A The Reasons, the positive action of the Board, yes. We have nothing to hide in that respect.

SENATOR YOSKO: Mr. Kohn, as Counsel for the committee, do you have any witnesses that you are going to produce that will testify that political or other improper influence was used on the Board in arriving at a decision to commute or not commute any of these sentences?

MR. KOHN: I will be very glad to take it up in a committee meeting.

SENATOR YOSKO: I beg your pardon.

MR. KOHN: I will be very glad to take that up in a committee meeting and tell you what I have and do not have.

SENATOR YOSKO: Well, could you tell us now? Just answer "yes" or "no."

MR. KOHN: No, I want to discuss the matter with the committee. I do not feel that I should be forced to make a public statement and give away everything that we may have or may not have. I think that is a matter for the committee to decide what I should and what I should not.

REPRESENTATIVE BELL: Mr. Chairman, I think that our attorney's position is correct and it should be taken up at an executive session.

SENATOR YOSKO: I think so myself. I have no objection to that. I merely asked him a question, and I would like an answer.

REPRESENTATIVE BELL: May I give a reason why? If we say who we are going to call and somebody goes to Florida very conveniently, while we have a subpoena for him—

SENATOR YOSKO: I did not propose to ask him for the names of anyone. I just want to know whether we are through now or whether we are to continue the hearing on this particular case.

Mr. KOHN: No, we are not through. I want to question him further on the Carney letter.

SENATOR YOSKO: Are we continuing the hearing on this particular case?

ATTORNEY GENERAL McBRIDE: Are we still on the bribery cases?

CHAIRMAN TOMPKINS: All right, proceed, Mr. Kohn.

BY MR. KOHN:

Q I would like to ask you, Mr. Hean, if you can refresh your memory as to why, after the Board acted on and reduced some of these sentences to one year they were subsequently reduced without any official action of the Board, without any consideration of the Board, to eleven months, five days?

A I can only answer like this; that the Board did not assemble and felt that they had to permit the man to get out before Christmas. You notice some of these were in the—

Q Did they take that into consideration when they reduced it to one year flat?

A They probably did not.

Q Was there anything on the record that would justify such action by the Board?

A No, I have no record of it, no sir.

Q That would be arbitrary action on their part. After they met and approved the original commutation, they again revised the date.

A This I will admit, yes.

BY REPRESENTATIVE BELL:

Q Mr. Hean, in other words, they reduced sentences further without having a formal meeting?

A Oh no, they had a formal meeting. They had a formal meeting.

Q Where and when?

A I cannot give it to you; I do not know where they held it. I have no record of it.

Q Aren't your records normally complete?

A They are complete as far as—

Q Why aren't there records on this?

A We do not keep records of the executive meetings.

Q Do you keep records as to when they took place?

A Only as the meeting would come back, I would have a note.

Q We are dealing with a serious matter here, where you are reducing a man's sentence which is normally done by the Board of Pardons in a formal session.

A That is correct.

Q And here you reduce them; maybe it is only from one year to eleven months, five days but you are reducing a man's sentence and you have no notes on it.

A I have notes. I took notes, oh yes, but they were only for my personal use.

Q Well how about giving them for the Board's use?

A I haven't got them; they are destroyed.

CHAIRMAN TOMPKINS: Well now, let us understand each other here. By the formal hearing that you are talking about, do you mean the open hearing before the Board in which cases are argued or do you mean the executive session after the hearing?

REPRESENTATIVE BELL: Mr. Chairman, what I am rather upset about, we have a printed form of rules to be followed by the Board of Pardons. We have had brought out here twice—and this is the third instance—where they do not follow the rules. It looks like there are two sets of rules; one set of rules for the normal people in Pennsylvania, the other set of rules for those who get special consideration, and I cannot see this situation here.

CHAIRMAN TOMPKINS: I am trying to find out what

you are talking about when you are talking about formal hearings, whether they are the open public hearings or whether it is the executive session meetings of the Pardons Board.

REPRESENTATIVE LOPRESTI: I think Mr. Bell cannot quite understand that the Board has the right to make its own rules and has the right to suspend its own rules just as the court does, just as the Legislature.

CHAIRMAN TOMPKINS: Now, I disagree with you about the court suspending its rules. No court ever suspended any rules on me when I got to court, I'll tell you.

REPRESENTATIVE LOPRESTI: The court suspends rules a lot of times.

REPRESENTATIVE BELL: But they do it with notice to the adverse party.

CHAIRMAN TOMPKINS: With notice, but not in court.

REPRESENTATIVE LOPRESTI: They will suspend a rule to allow you to file a paper which under the rules was supposed to have been filed the day before. It is all a question—

REPRESENTATIVE BELL: Well I condemn such practice here where they reduce sentences from twelve months to eleven months, five days without notice, without any formality and apparently without any record being taken.

THE WITNESS: I kept a record and—

BY REPRESENTATIVE BELL:

Q Where is the record?

A I would not know. No record—if I use the words "I kept it," I kept a note of what they wanted to do in each case.

Q And you just testified that you destroyed your notes.

A Yes sir.

REPRESENTATIVE BELL: Well I do not think that is a proper practice.

BY SENATOR SCOTT:

Q Mr. Hean, I am interested in one situation. Was the further commutation given after official notice had been given of what the commutation had been—for instance, the original commutation was agreed to by the Board in executive session for the year?

A Yes.

Q Now was there official notice made of that commutation and then was it later reduced to eleven months, five days or did the Board change the situation before official notice was given?

A I wish I could answer you just as you have asked it, very clearly. My recollection is that notice was sent, notice was sent that the sentence would be commuted to one year. When we reduced it from twelve months to eleven months X days, I do not recall sending out any notice to the district attorney of the three week reduction or whatever it may have been.

BY SENATOR YOSKO:

Q Mr. Hean, were all of the defendants whose sentences were commuted released about the same time and before Christmas?

A Some were and some were not. I do not have the date of actual release from the institution.

Q Was it up to the Pardons Board to release them or was it up to the Parole Board?

A Some were out on probation. The Parole Board would do the work and I do not have a record of the actual date any of these persons walked out of the county prison, the Allegheny County Workhouse or wherever they were.

Q I wish you would get that for us.

A The actual date that they left the institution?

Q Yes.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, suppose they commute a man's sentence, say, as of March 4, 1957, how long is it before that man will get out of jail?

A We bring him—to use a current expression—the Board of Pardons brings him to the jail door. The Board of Parole then picks him up, subject to an approved parole program. If his parole program is satisfactory and submitted prior to March 4, very little time is lost. If, however, he comes up to March 4 and does not have an approved parole program, then he is still confined in the institution until that program is approved by the Parole Board, so the time element—

Q Do you mean to say that the Parole Board, still with all the action of the Pardons Board, can veto the action of the Pardons Board?

A Absolutely.

Q Well that is a grand state of affairs.

A Well that has been going on now since the Legislature in 1941 so set up the Parole Board, Mr. Tompkins, and gave them that power and authority not to release anyone until they had the approval of the Parole Board.

Q Do you think that is proper?

A My personal opinion does not weigh very much.

Q What is the good of a Pardons Board if a Parole Board can take its own time to let those men out of jail without having a program?

A Well that is a fact.

Q Is there no better co-ordination between the Pardons Board and the Parole Board than that?

A They are notified as soon as we send out our notices. The Parole Board gets the notices of the action of the Board of Pardons that we are going to commute the sentence of John Brown on March 4, 1955. That may have gone out in February 1955. If this John Brown does not have a parole program that is suitable as of March 4, 1955, he stays there until he gets one.

Q Then why should the Pardons Board consider the commutation of any sentence until such time as the Parole Board notifies that there is a parole program ready for that person?

A That I cannot answer. That question is a good one which I cannot answer.

Q Don't you think something like that should be done?

A There could be a closer cooperation or coordination. It was at one time that way.

Q What do you think is the affect on that prisoner to have the sentence commuted and then have the Parole Board say he cannot get out?

A If I were that prisoner, I would be awfully uncomfortable.

BY SENATOR YOSKO:

Q Mr. Hean, that leads me to this question. When the

Parole Board commutes a minimum sentence or the Pardons Board lowers a sentence, that is the minimum sentence, isn't it?

A That is correct.

Q What happens to the maximum? Is that reduced in proportion or does that remain?

A No, that is not reduced. That is still maintained.

Q All right, then the Parole Board has jurisdiction over that prisoner until the maximum period expires, is that correct?

A That is correct.

Q And it is for that reason that they exercise control over them in spite of the fact that the minimum sentence is lowered?

A That is correct. The Legislature has charged the Parole Board with the duty of supervising and keeping prisoners and persons released from the penitentiary out of trouble, and they think one of the primary—and I agree with them—one of the primary elements is a good parole program, a home, a sponsor and a job.

BY REPRESENTATIVE BELL:

Q That would not apply where there was an outright pardon?

A Not with an outright pardon. With an outright pardon, he walks out as free as you can imagine.

ATTORNEY GENERAL McBRIDE: That would not apply to a commutation of the maximum sentence either.

BY MR. KOHN:

Q Mr. Hean, when there is a petition for a rehearing, can't the Board commute the sentence without a further rehearing once they have denied a rehearing for an application?

A Well, I—you are asking whether after a man has been refused—

Q He has been refused on the original application, and then he has been refused on the rehearing, and there is now a petition for a rehearing, does the Board have a public hearing or can they reconsider it in an executive session?

A The Board has the power to reconsider in executive session any action that it had previously taken.

Q So if they refused this application for a rehearing on October 4—

A Yes.

Q Did they have a rehearing on the Martin case at any time thereafter?

A My recollection is not clear. I do believe they did.

Q I would like to have your notes tell me whether they did or not, because my investigation of it was that they never did anything further than commute his sentence. There was no rehearing on it.

A It was reconsidered on the 25th of October 1955.

Q Where was that hearing held?

A I have no notes here on my sheet that it was a public hearing as you—

Q What is a hearing? If I petition for a rehearing, where do I get it?

A A public hearing is held in the Supreme Court Room

Q Is that what was asked for here by the attorney for Martin? Did he send in a letter asking for a rehearing, sending in new reasons?

A That is Mr. Martin; he submitted a letter.

Q What was done in pursuance of that letter? When was the hearing held, who was present, what was done and how did they vote?

A They considered the letter and they also considered the communication from Judge Evans in which he—

Q When was the hearing? Where was it held? Where was the hearing of any kind?

A I do not recall, Mr. Kohn.

Q When was the executive session at which the rehearing was supposed to be held?

A About the 25th day of October 1955.

Q Where did you have a session that day?

A The sessions of October 25—

Q Twenty-fifth?

A I have not got the calendar in front of me; you have it.

Q Was the attorney for the applicant who was requesting a rehearing notified and was the district attorney notified of the rehearing of October 25?

A I have no such recollection.

Q Is there anything in the file which indicates that he was notified, either one?

A I have no such recollection.

Q In fact, no hearing of any kind as far as the record is concerned?

A In a public hearing, no.

Q There was no executive hearing at which the applicant, who was asking for a rehearing on certain grounds in a letter, could come forth and give his facts or the district attorney either?

A An executive session is not open to attorneys for the applicant or for the district attorney of the Commonwealth.

Q What did you and Mr. Furman advise him as to how he should apply for a rehearing in order to get one?

A It is up to the Board to make their own rules and decisions as they see fit.

Q Make their own rules and decisions?

A That is right, being an independent constitutional body.

Q Now I go back to this Edward Camilli. He was the other policeman involved, was he not?

A I believe so.

Q Now they left him out in nine months, did they not? What was his commutation? Is that correct? The reasons they gave—

A That was commuted from one year to nine months.

Q And the reasons they gave: " 'We know that prior to Camilli being involved in the bribery cases he was an honest and efficient policeman and a law-abiding citizen with an excellent reputation. We feel that he has been a victim of circumstances and that his exposure was a severe punishment to him and his family. We believe that further incarceration is not necessary to rehabilitate him and that if released that he can take his place in society as a law-abiding citizen'."

Now his case was heard at the same time Martin's was heard, was it not, and he deserves the same time as Martin deserves, is that right?

A Yes sir.

Q And they refused Martin, is that right?

A Yes sir.

Q And Martin was the only one that was refused on that whole list that was heard in June?

A That is right.

Q And Camilli was granted in spite of the fact that Martin assisted the Commonwealth, and the district attorney and judge were in favor of his commutation, is that right?

A That is right.

Q What discussion about it did the Board have and what reasons did they give for stating that Camilli deserved consideration because he was an honest cop before that and how did they distinguish, if you remember that case, from the Martin case?

A I have no such recollection of their discussion, Mr. Kohn.

Q You were there?

A I was there.

MR. KOHN: All right.

ATTORNEY GENERAL McBRIDE: Is it clear that Camilli was a patrolman and Martin was an inspector for the Commonwealth?

MR. KOHN: That is all.

CHAIRMAN TOMPKINS: Being 1:30 and the Senate wanting this room very shortly for a Caucus, the Republican Members of the Senate—if we dare mention political parties here—we will adjourn these hearings or recess these hearings until 9:30 a. m. Wednesday morning.

(At 1:30 p. m. the hearing was adjourned until 9:30 a. m., Wednesday, March 6, 1957.)

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing on the above cause before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and that this copy is a correct transcript of the same.

PATRICIA L. SAYER.

Reported by:

Miss Patricia L. Sayer
1625 Green Street
Harrisburg, Pennsylvania

BEFORE THE

JONT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

At Harrisburg, Pennsylvania

Date, March 6, 1957

Volume IV

PATRICIA L. SAYER
1625 Green Street,
Harrisburg, Penna.

CEdar 2-2832

INDEX

Committee's Witnesses	Direct	Cross	Redirect	Recross
Frank R. Hean (Recalled)			450	489
			504	506
Damien McLaughlin	525			
Frank R. Hean (Recalled)			579	580
			641	690
			693	694
			697	
Harold J. Sullivan	581	585		
Herbert J. Johnson, Jr.	587	612	625	635

EXHIBITS

Pardons Board	Identified and Received
Exhibit No. 10—Six-page memorandum Committee	506
Exhibit No. 11—Letter dated January 6, 1956 to Board of Pardons	606
Exhibit No. 12—Memorandum dated August 30, 1956 to All Board Members	684
Exhibit No. 13—Letter dated August 2, 1956 to Honorable Roy E. Furman	684
Exhibit No. 14—Memorandum dated August 10, 1956 to Frank R. Hean	684
Exhibit No. 15—Letter dated May 29, 1956 to Honorable Roy E. Furman together with attached letter dated June 11, 1956 to Rabbi Aaron Decter	685
Exhibit No. 16—Letter dated June 4, 1956 to Frank R. Hean, together with letter dated June 7, 1956 to Rabbi Abraham B. Shoulson	685
Exhibit No. 17—Letter dated June 1, 1956 to Frank R. Hean, together with letter dated June 7, 1956 to Rabbi Aaron Decter	685-686
Exhibit No. 18—Letter dated October 14, 1955 to Board of Pardons	686

BEFORE JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOAD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a.m., Wednesday, March 6, 1957

Present:

Representative Edwin W. Tompkins, Chairman

Representative Clarence D. Bell

Representative Philip Lopresti

Senator Robert D. Fleming

Senator William Z. Scott

Senator Joseph J. Yosko
Members of Committee.

Appearances:

Thomas D. McBride, Esquire, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania. For—Board of Pardons.

David S. Kohn, Esquire, 9 N Front Street, Harrisburg, Pennsylvania. For—Committee.

James William Evans, Esquire, 5 N. Front Street, Harrisburg, Pensylvania. For—Committee (Assisting Counsel).

CHAIRMAN TOMPKINS: This hearing will come to order.

ATTORNEY GENERAL McBRIDE: If your committee is in order, Mr. Chairman, may I address you because my clients are concerned about the course of the investigation in the next phase and they have asked me if I would make a statement so that they could guide themselves. It is said by Mr. Miller that the chairman of this committee has made a formal demand upon me that I disqualify myself while a legislative committee investigates the David Darcy death sentence commutation. It is said also that I received that formal demand and that I was asked to quit the Darcy probe. My clients are concerned with that because they are in the middle of preparation for that aspect of the case. First, I want to inform you, Mr. Chairman, I got no such formal demand, and my clients have asked me to advise them what they are to do about it. If this committee has formally taken action that I must quit this probe, they want to know about it at the earliest possible moment so that they can take such legal remedy to protect their rights as exist under law. Now I, therefore, ask the chair to clarify this situation under their rights by making a statement whether or not any formal demand has been made upon me either by the chair or by committee action.

CHAIRMAN TOMPKINS: General McBride, I quote from that article as follows, and it is a quote that I made:

"Attorney General Thomas D. McBride, in a newspaper release of March 5 expresses a defense on conflict of interests on representation of the Pardons Board and present representation of that body. In a previous communication between the committee and the Attorney General, the position of each was stated. The present statement of the Attorney General appears to be a defense of himself in the reaction of the press and the public to the position which he has taken. Personally, I shall continue to insist there is a conflict of interests when we review and investigate cases where the Attorney General has appeared as counsel and that I feel he should disqualify himself."

Now that was my statement and there was no formal demand communicated to the Attorney General. The Attorney General did not communicate to myself or to the committee a statement which he released yesterday. We found out in the press, and what the Attorney General does is entirely up to him. We have merely stated our position with regard to conflict of interests.

ATTORNEY GENERAL McBRIDE: Then there has been no formal action by the committee and I may so advise my clients?

CHAIRMAN TOMPKINS: I so stated in the statement which I released in the press and that is my statement.

ATTORNEY GENERAL McBRIDE: The statement quotes you this way—

CHAIRMAN TOMPKINS: I just read the statement.

ATTORNEY GENERAL McBRIDE: The statement says this, that is, that he made a formal demand.

SENATOR SCOTT: The headline does.

ATTORNEY GENERAL McBRIDE: The statement does, Senator. "State Senator Edwin W. Tompkins today made a formal demand that Attorney General Thomas D. McBride disqualify himself," etcetera. Now I take it that the committee states that that is not true. You did not formally demand that I disqualify myself, is that correct?

CHAIRMAN TOMPKINS: I did not make any formal request. This committee did not make any formal request. Those were our comments which I made in reference to the release which you did not communicate to me or to any members of this committee.

ATTORNEY GENERAL McBRIDE: It was a press release.

CHAIRMAN TOMPKINS: And my comments were entirely upon the release you made. You have taken your position; we have stated ours. It is now up to the general public to make a determination.

ATTORNEY GENERAL McBRIDE: In any event there is no formal committee action. That is the important thing.

SENATOR YOSKO: Well, I do not want to prolong this today but, for the record, to the best of my knowledge, there has been no discussion of your participation in these hearings other than the first one, the first meeting, we had when the letter was presented to you and you answered the letter and we discussed it and it was made a part of the record.

CHAIRMAN TOMPKINS: Mr. Kohn.

MR. KOHN: Mr. Hean, will you take the witness chair, please?

I would like to ask, with your permission, a few more questions of Mr. Hean before I release him for cross-examination.

CHAIRMAN TOMPKINS: Very well.

FRANK R. HEAN, Recalled on
FURTHER REDIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Hean, have you checked your files any time in the Fatley case?

A I read over some of the information on the Flatley case.

Q Have you found any documents which were not in the file at the time we asked for it?

A Not in the Flatley case; in the Martin case.

Q You found them in the Martin case?

A Yes.

Q What did you find?

A You were asking me with respect to a refusal dated approximately October 4th, what was the basis for that refusal and papers related to it—

Q Where did you—

A And I leafed through the Martin folder at the time before the Board and could not find it and, therefore, I believe I stated that I had no recollection or had no information on it that would be positive. Following the meeting on Monday afternoon, I reviewed that folder and found such information that prompted the Board,

and a letter—a letter that I wrote to the attorney representing Mr. Martin.

Q Where did you find such information?

A In the Martin folder.

Q And which letter do you refer to?

A The letters that were clipped to the October 4th refusal to granting a reconsideration.

Q Would you refer to that letter, please?

A This is the letter, the first sentence of the second paragraph that prompted discusion, Mr.—

Q Is this the memorandum of October 25, 1955?

A Yes.

Q From yourself to the members of the Board?

A In which I mentioned that the October 4th request was refused or words to that effect.

Q Yes, it was circulated on October 4, 1955 and unanimously refused. What did you find in support of that letter?

A I found, following the meeting on Monday, this correspondence dated October 5th, October 4th, and a letter, and a formal request of Mr.—and a letter from Mr. I have a letter in here from McCartney; not McCartney, Carney.

Q What is the date of that letter? What is the date of that letter from Carney?

A Around the—

O Sixth of October, is it?

A Yes.

Q That was in the file. We discussed that. What other letters did you find?

A And then some letters from June, along about June 6th, 11th, and June 6th.

Q Those were all in the file. Well, I'm referring to anything that relates to the October 4th statement that you made in your memorandum to the Board of October 25th.

A I have a letter. I have here, which is dated October 10th.

Q Mr. Hean, I dont' know if you get my point or not.

A No; I don't.

Q Did you find anything relating to a request for a rehearing which you say was refused on October 4th? Did you find anything additional in the file, in that file, in the Martin, in your own notes or any place else?

A I have the reason of the letter which prompted me and that I did not find, why we refused and why there was a request on October—

Q In other words you have nothing on October 4?

A No.

Q Still nothing on October 4?

A Nothing dated prior to October 4th. There is no such letter.

Q Now may I call your attention back to the Flatley case. I ask you now whether you checked your files to find out when, why and where the action was taken to reduce Flatley's sentence from one year to eleven months and nine days? Did you find anything additional:

A I can only answer I did not find anything additional.

Q Now, how—

A Can I answer that? The members of the Board I think, are all present this morning and they have a recollection probably better than I for that question.

Q Does your Board meet to consider such matters as the reduction from the original commutation to a further reduction?

A The Board holds regular executive sessions following each meeting of the Board in open meeting.

Q All right, will you tell us when this executive session which reduced the sentence from one year to eleven months and five days was held and where the minutes of the executive session are?

A I cannot give you the precise date. Number two, the minutes of the meeting, such records are not—That is a general discussion in which the Board would act and give me instructions to so write a reason or recommendation.

Q Now, when was the sentence commuted from one and a half years to one year? What was the date of that?

A That I cannot give you offhand. The members of the Board are here.

Q I asked you what your records show. You keep the records, do you not?

A I keep some of the records.

Q Will you refer to the records and tell me when it was decided by the Board in the meeting right after the hearing to commute that sentence from one and a half to one year?

SENATOR YOSKO: What sentence?

MR. KOHN: The Flatley sentence from one and a half to one year.

THE WITNESS: I have a note there, Mr. Kohn, that was changed to eleven months, five days, to expire December 15, 1955. Originally it was one year, which would make it approximately on or about January 10th, and it was reduced to December 15, 1955.

BY MR. KOHN:

Q Now you still havent answered my question. What I would like to know specifically is when in the action of the Board they agreed to reduce it from one and a half to one year? What was the date of that action?

A I cannot give it to you. I have no record of it.

Q Well does anybody keep any record of it?

A The members of the Board are here and some of them keep records; yes, sir.

Q Now when you go into executive session right after these hearings, the Flatley case and many others were considered at the same time, were they not?

A Yes.

Q And was the Flatley case decided by the Board immediately after the hearing?

A I would say that my records would indicate that on the day that all of these cases were considered the Flatley case was included.

Q And that was decided right after the hearings on these cases?

A That is correct.

Q Now then, what prompted the Board to further reconsider the Flatley commutation at another session?

SENATOR YOSKO: Mr. Kohn, I don't like to interrupt but I just don't think it's fair to ask Mr. Hean about actions of the Board. Now the Chairman of the Board is back there and I also see three other members, and if it is going to expedite these hearings and to get some intelligent answers to the questionse, I think you ought to call one of the members of the Board and particularly, the Chairman of the Board who is here and perhaps he can clarify anything that you want to develop here.

MR. KOHN: Mr. Yosko, my purpose in this line of questioning at present—

SENATOR YOSKO: What we want are facts. We are not here to befuddle the witness and to try to convey the idea that he does not keep records and that he does not do a lot of other things. If it is anything pertaining to the action of the Board, the Board members are back there and I think we ought to call them.

MR. KOHN: Mr. Chairman, my purpose in this line of examination at the present time is that this man is the custodian of the public records that are to be kept by the Pardons Board.

SENATOR YOSKO: I know, but the question you asked was what prompted the Board. After all there isn't anything in the file to show what prompted them. The Board is sitting back there.

MR. KOHN: I asked him when and what prompted the Board; was there anything in the file to show—

SENATOR YOSKO: Well, but the Board is sitting back there. Let's call them and ask them.

SENATOR SCOTT: I think, Mr. Chairman, that we certainly should get around to calling the members of the Board, but I think it is very important that we do know what the records show and the procedure used.

SENATOR YOSKO: Well now, if you say, "What did the record show?" How does he know what prompted the Board? The Board is there and can speak for itself.

CHAIRMAN TOMPKINS: The Board is there, it can speak for itself. He is not here to speak for the Board.

SENATOR SCOTT: It is my understanding that Mr. Hean does keep notes and records of the feelings of the various members of the Board on certain things, is that correct?

THE WITNESS: That is correct, Senator.

SENATOR SCOTT: Well I think that is what Mr. Kohn is trying to find out, if the record shows in this particular case whether there is anything that would show what the various members of the Board felt on these commutations in this particular.

SENATOR YOSKO: Well, if he wants to ask what the record shows, Senator Scott, that is correct, but when you ask what prompted them and whatever prompted them is not supposed to be a matter of record, why should he answer for the Board?

REPRESENTATIVE BELL: Mr. Chairman, if the witness knows what prompted the Board, I think he is competent to testify.

CHAIRMAN TOMPKINS: I believe this witness should testify as to what his official record of the Pardons Board discloses and if he has knowledge on information as to what prompted the Board and was present at the time that the deliberations took place and he can testify to it from his own knowledge, then I think he should be entitled to testify. As to what mental processes the Board used otherwise, of course, that is something this witness can't go into, but, certainly, he should give a full disclosure of all the records that he has in his possession which are official records pertaining to this particular case.

SENATOR SCOTT: I think, Mr. Chairman, that the use of the word "prompted" is the thing that has probably thrown us off.

"Prompted," in my estimation, means what were the compelling reasons for the particular member of the Board's decision on it, and I do not think that is exactly what Mr. Kohn has in mind, and you can correct me if I am wrong. Mr. Kohn, it is my understanding that you want to find out if there is anything in the record for the reasoning of any particular member of the Board.

MR. KOHN: Yes, plus what is in the record so that this committee can determine whether or not—

SENATOR SCOTT: Well, let's find out what is in the record.

THE WITNESS: I have a record here showing that when the Board met they gave a one-year commutation of the sentence of Mr. Flatley that had originally been one and one-half years. Then, subsequently, the Board changed that commutation from one year to eleven months, five days expiring December 15, 1955.

BY SENATOR SCOTT:

Q And is there anything in the record to show the reasoning of why that was done?

A No.

BY CHAIRMAN TOMPKINS:

Q Is there anything on the record to show the date that was done?

A I have not a precise date, no.

BY MR. KOHN:

Q Who would have such a precise date?

A I do not know. That is an honest question.

Q Well, does anybody keep any records in regards to subsequent action after commutation has been decided upon whether that commutation conditions has been changed?

A There are notes that each member keeps. Those I have never inspected, and they probably could answer that.

Q Don't you attend deliberations of the executive committee?

A Yes, I attend the deliberations of the executive session.

Q Can you tell me how soon after it was changed from one and one-half years to one year that this additional change was promulgated?

A I cannot; I could not give you a precise date.

Q And you stated, I think, on your previous testimony that the district attorney was notified when the sentence was commuted from one and one-half to one year?

A There was—

Q You stated that on the testimony?

A I may have stated. I do not recall.

Q Now was the district attorney or any other person in the case notified that further commutation was being considered?

A I do not believe so. I know I did not write a letter like that.

Q Now—what procedure would be used to further commute the sentence where once it has been decided upon? Who would initiate such measures?

A Who would prompt it? In this instance I think the Board had reason to reduce the sentence. It is a Board of mercy.

Q I did not ask you to explain the functions of the

Board. I asked you who would decide that there should be further—

A The Board of Pardons.

Q And did the Governor call the Board of Pardons between the time that they commuted it from one and one-half to one year and the time it was commuted to eleven months, five days, do you know?

A I have no knowledge that the Governor ever called the Board of Pardons into formal session.

Q Do you recall anything about the discussion concerning the commutation, the further commutation, at the time it took place as to who instigated it or why it was being reconsidered?

A No; I do not have any clear-cut recollection.

Q Did outsiders come in and talk to you or to members of the Pardons Board asking for further commutation?

A You are now directing it to the Thomas Flatley case?

Q Yes.

A I have no recollection of ever holding a conversation with Mr. Carney in respect to Thomas W. Flatley.

Q Or anybody else?

A Or anybody else.

Q And, therefore, there is nothing in the record as far as your record, official records, of the Pardons Board is concerned which would indicate why, how or when further commutation of the sentence came about?

A I have nothing further. However, you consult the Flatley file which is before you and I think there is a letter there from Judge Evans, isn't there?

Q Not after the commutation of one year—to one year.

A To one year.

Q Do you recall any letters from Judge Evans after the commutation to one year?

A I knew there was a letter from Judge Evans.

Q You had read that into the record. Is that what you are referring to, dealing with his thoughts on the commutation?

A Yes.

Q I am dealing with the question of what prompted further commutation, if you know or if your records show.

A My records do not show.

Q Mr. Hean, do you know of any consultation that ever took place between the Governor and the members of the Pardons Board before they recommended commutation?

A I never learned of any such conference. Certainly I never attended any in which the Governor talked with the members of the Board either as a group or as an individual.

Q Let me ask you one other question, if you please. The letters received by members of the Pardons Board concerning any particular case, are they put in the file of that case?

A Some are sent to me. They are sent direct to members of the Board. Others are possibly kept by the members that I never see and would not know of.

Q In other words there are letters sent to the different members of the Pardons Board sometimes on different applications which they keep in their own files and do not divulge to you or to the other members of the Board.

A Well, I do not know whether they divulge them or not. I never heard of them but, undoubtedly, the members receive letters.

BY SENATOR YOSKO:

Q Just a minute. Do you know or dont you know that people write to individual members of the Board for or against commutation? You can either say yes or no.

A Yes; they do write to members of the Board.

BY MR. KOHN:

Q Where are those records taken?

A The individual letters written?

Q Yes, are there any notes?

A If they are not sent to me, then I have no knowledge of them officially.

Q Now, one other question in regard to procedure generally. I have gone through these files and actually, there is no historical or chronological note made of the paper files or the letter file or any other petition for a rehearing or anything else?

A Except the file generally.

Q You put it in the file generally but there is nothing—

A Yes.

Q But nothing more?

A No nothing more.

Q There could be things missing, couldn't there? I am not accusing you. We have been friends for a long time.

A No.

Q But there is no index made of any particular file?

A That is correct.

Q So letters could be put in there and taken out without your knowing it if the file went to anybody to look at it?

A That is entirely possible.

Q I do not want anybody to misunderstand me. I am not saying that that is so. I am checking for matters of procedure. I do not want to impute that there is anything missing or that Mr. Hean took it out.

BY SENATOR BELL:

Q Mr. Hean, on these Erie cases I would like to refresh your memory to our testimony on Monday. Is my recollection correct that you stated that there were no public hearings held upon these petitions to reduce a sentence from twelve months to eleven months, five days or six days?

A I have no such recollection of a public hearing being held. That is you are thinking of a public hearing or before—

Q An open hearing?

A I have no such recollection that there was ever such a public hearing, open hearing, reducing it from one year to, as you say, eleven months, five days or nine days or whatever it might be.

Q Now if there had been a public hearing would your records have shown it?

A There would have been a note in the calendar.

Q Is there such a note in your calendar?

A For the September hearing, there is no such note in the calendar that there was a further hearing.

Q That there was an open hearing?

A That is right.

Q Now, Mr. Hean I show you Purdon's, the Constitution of Pennsylvania, Section 9 of Article 4. Will you read that section? Will you read it out loud, sir?

A We shall have Section 9, Article 4, under the general topic "Executive." "He," that is the Governor, "shall have the power to limit fines and forfeitures, to grant reprieves, commutations of sentences and pardons, except in cases of impeachment, but no pardons shall be granted nor sentence commuted except upon the recommendation in writing of the Lieutenant Governor, Secretary of the Commonwealth, Attorney General and Secretary of Internal Affairs, or any three of them after full hearing, upon due public notice and in open session, and such recommendations with the reasons therefor at length shall be recorded and filed in the office of the Secretary of the Commonwealth."

Q Now I draw your attention specifically to the words, "After full hearing, upon due public notice and in open session." Were the Erie commutations granted following a full hearing, upon due public notice and in open session?

A I so understood it to be, that is, a full hearing due public notice and full open session. Yes, sir.

Q When was the open session held?

A They were held on September 14, 15, and September 22, and ones for the Erie cases were held on the 15th day of September, 1955.

Q In other words the public hearing was held in a period of almost one month prior to the time, I said prior to the time that the request for the rehearings was submitted to you?

A That was it.

Q In your opinion that is compliance with the Constitution?

A Yes, sir. However, may I qualify that that we have the advice of Counsel on that matter. That is my personal opinion and not the opinion of the Board.

Q Is it customary to hold the public hearings prior to the filing of the petition for commutation?

A No, no. They always follow the petition. The public hearings follow the filing of the petitions.

Q But in the Erie cases—I do not want to befuddle you; I want you to give a clear answer. But in the Erie cases when there were petitions for a rehearing for commutation from twelve months to eleven months, five days, six days, the public hearing was held before the filing of the petitions.

A Let me put it this way, if I may answer it, Mr. Representative. There was an application for a commutation of the sentence which was heard by the Board in September of 1955.

Q And refused?

A And refused. I thought we granted it on one year after the date of commitment. That would have been approximately January 10. Between then September 15, there was a change in the time from one year upon due consideration of the Board, reducing it from one year, twelve months to eleven months, five days.

Q And when was the public hearing held upon which that was based?

A The public hearing was held on or about the 15th Day of September, 1955.

Q And then on the advice of, did you say your opinion or on the advice of counsel, it is in compliance with the Constitution?

A No; I said it was my opinion.

SENATOR YOSKO: As much as I dislike prolonging the proceedings, I must at this time make a brief statement.

I am a little bit surprised that our counsel has indicated that he has completed his examination of Mr. Hean. I want to make it clear that we did not employ our counsel to act as a prosecutor in these hearings. He was employed to prepare the cases and to present all of the facts fairly and impartially and not just to present those facts that might reflect discredit on someone without also presenting facts that would reflect credit or indicate that the Board acted fairly and impartially. In my opinion, a part of that record should be the recommendations that were made by district attorneys, by judges, by the warden in the jail and by others that either indicated that the petition for commutation or pardon should be granted or refused.

Now here we have eighteen cases involving the Erie so-called scandal. Each one of the eighteen based on facts either pled guilty or were found guilty and they were sentenced by the court. After they were in prison they filed an application for a commutation of the sentences and there are other matters in the record or probably should be in the record to indicate just what impelled the Pardons Board to grant clemency, and in my opinion I think we ought to have that presented to us, as well as the facts that have been presented thus far. I, at this time, will suggest to our counsel so that the members of the Board can be sufficiently informed on any case, that he prepare a form of some kind that would indicate the crime that was committed, brief statements of the facts involved in that crime, the date the defendant was arrested, whether he pled guilty or was found guilty, the attorney that represented him, the sentence that was meted out by the court, whether an appeal was taken, the date the defendant went to jail, the date a petition was subsequently filed for commutation of pardon, the date it was heard by the Pardons Board, the attorney that appeared for the Pardons Board, the decision of the Board, and if it was refused, the date of the petition for a rehearing or for reconsideration, the decision of the Board on that rehearing or reconsideration, and if granted, the date the prisoner was released, the recommendation of the district attorney, the recommendation of the judge, the report of the Warden, the report of the parole officer, and any other information that would be of value to this committee, so that we would have all of those facts before us, each member of the Committee, so that we could be guided by it and so that we could intelligently examine a witness or witnesses if we see fit. If it is done in that fashion it will convey to the public that we are here not to prosecute somebody but that we are here to carry out the functions of a resolution, namely, to determine whether there has been any political influence which, in turn, influenced the decision of the Pardons Board or whether the Pardons Board abused any of the authority granted to it.

I think if we proceed in that fashion we will expedite these cases and be able to arrive at satisfactory conclusions and if necessary make our recommendations in the report, and if those recommendations contain or are such that would require legislation, we can prepare it and submit it before this General Assembly adjourns.

Because all of these facts have not been made a part

of the record so far, I will not go into them because I am assuming that Mr. McBride will cross-examine the witness and if he does not bring out some of those things then I reserve the right to question the witness.

CHAIRMAN TOMPKINS: I agree with Mr. or Senator Yosko that the functions of this committee is not to prosecute. I think I made a statement in my opening statement when we started these hearings that the purpose of this committee is not to crucify but to clarify, and that if there are facts in the record which have not been brought out and disclosed, if you have knowledge of them, we feel that you as a member of the Committee are justified in bringing them out, if the Attorney General on his cross-examination does not bring out those disclosures.

SENATOR SCOTT: Well, I think in order to clarify, I would like to direct my question to our Counsel. Is there anything in the file of a relevant nature such as was enumerated by Senator Yosko which you have not brought out?

MR. KOHN: Senator Scott, it was my understanding this morning that we were going to bring up the cases that might be of interest to the Board and not every Erie County case.

If Senator Yosko would take the time to look through any of these files, he would find all that information in each file on the application without any trouble.

SENATOR SCOTT: Well, on these particular cases we are concentrating on which are four or five in the Erie County series of cases, I recall very vividly you bringing out the letter from the judge wherein he recommended it and so on.

MR. KOHN: Except in the Flatley case there are fifty or sixty letters which I do not think you want to read. In fact, you asked about the letters where people wrote in and whether those letters were considered.

SENATOR SCOTT: I remember you asking the witness as to a series of letters and as to what the import of those letters was, and I remember him saying that they were all inducive to granting the commutation.

MR. KOHN: Yes, and the rest of the information Senator Yosko seeks is on the face of the application and if he would take the time to look at it he could see it.

ATTORNEY GENERAL McBRIDE: But it is not in this record. That is the important thing.

CHAIRMAN TOMPKINS: Was there filed with this committee the other day a statement that contained substantial portions of the issues as to the offense charged to which those charged pled guilty or were found guilty?

MR. KOHN: Not only have I filed them, but the Attorney General also filed them.

CHAIRMAN TOMPKINS: Whether or not they were recommended or refused by a Judge or district attorney, was there not put into the record the other day a summary of that?

ATTORNEY GENERAL McBRIDE: We have a summary which was not brought out before this committee. I think for the enlightenment of the committee I would like to cross-examine Mr. Hean as to these cases to show whether the Board acted contrary or in favor of, that is, more lenient or less lenient to the recommendations of the district attorney and of the judge—precisely what this committee would like to know.

SENATOR SCOTT: I agree with that but right now I am trying to clarify the atmosphere of all the things that Senator Yosko brought out and I want to know if our own committee attorney has been withholding certain information and has only been presenting the case in a, let us say, favorable light. I think we ought to know that.

ATTORNEY GENERAL McBRIDE: Nothing has been asked about these things which Senator Yosko talked about.

SENATOR YOSKO: I do not believe anything was asked about the recommendation of the district attorney.

SENATOR SCOTT: That is not true. He did read a letter—

REPRESENTATIVE LOPRESTI: Mr. Chairman, may I make a remark here?

There was a letter read into the record, read in at my request. Information was prepared and we have it this morning and members of the committee will also have copies of the various cases before us, but that was also at my request and I would like at this time to point out, too, that the suggestion was made this morning that Mr. Hean read into the record a letter regarding Mayor Flatley's case. That was not true. Mr. Hean read into the record a letter regarding Mr. Martin. Now it had been suggested this morning that he had read a letter regarding Mr. Flatley, which is not true. If I recall correctly, I asked specifically to have the Martin letter read, other than that, we have had nothing presented to us by our counsel. What has been brought in has been brought in by the questioning on the part of our committee.

SENATOR YOSKO: Now, Senator Scott, here is what I am more or less driving at. There are eighteen cases here and I assume that when we—at least the record so shows that what was read into the record that when the Board acted, it acted on the eighteen cases as a whole, so that one of the defendants would not be shown any more favoritism than the other and if the record does not so show, then it is something for us to consider, but there were only three cases picked out here as I see it of the eighteen upon which there was concentration, and I would like to know, too, why only three of the eighteen cases are concentrated on here.

CHAIRMAN TOMPKINS: Let me ask this question: Counsel has read into the record the other day, information regarding these eighteen cases. Here is a very condensed summary of the eighteen cases involved in the so-called Erie bribery cases. May I ask who prepared this and from what information it was obtained or from what source it was obtained?

ATTORNEY GENERAL McBRIDE: If the Chairman's question is directed to me it was prepared by Deputy Attorney General Victor Wright.

CHAIRMAN TOMPKINS: From what source was this information obtained?

MR. VICTOR WRIGHT: Mr. Chairman, it was obtained from two sources, one of which was supplied to me by Mr. Kohn which consisted of an onion-skin copy of the material which I think he read into the record the other day, which simply was the name of the applicant and the charge upon which he had been sentenced, the amount of the sentence, the date of the imprisonment, the date of his release, and the term to which the sentence had been commuted in the cases in which commutation

was granted. There was only one, if you will recall, in which the application was refused.

The remaining material, that is, the recommendations, the summary recommendations, of the District Attorney, the summary recommendation of the court, and the column headed 'Remarks,"—rather, let me correct that—the first two that I referred to, the recommendations of the district attorney and the court, I obtained from the files of the cases and from the transcript of the statements made before the Board of Pardons at the times of the hearing. The column entitled "Remarks," which indicates in some way the character of the individual, that is, whether or not he was one to offer a bribe, whether or not he was the leader, otherwise characterizes the individual. The operation included the files of the cases.

CHAIRMAN TOMPKINS: We thank you but there is no doubt but that this condensed statement should at the proper place be made a part of the record. Now, as I understand it, these files themselves, although not a part of the transcribed record—they would be a tremendous volume—will be available for Monday for the use of the members of this committee and determination of their findings, and if there is anything in their files that they want to look at, it will be available.

ATTORNEY GENERAL McBRIDE: I give my personal assurnace to the committee that will be held available to this committee. I have issued instructions that as to all of these files, even though I want to review them myself in preparation for the hearings, first priority is to be given to the committee counsel and to the committee, and only after you have told me what cases you are going to bring up, then do I consider myself free to use them in my own preparation.

REPRESENTATIVE LOPRESTI: If we are offering suggestions, Mr. Chairman, I have another question which I would like to direct to—

CHAIRMAN TOMPKINS: We will—Senator Yosko has raised a question here which will be given due process as we proceed.

ATTORNEY GENERAL McBRIDE: Can I say, in addition, that the recommendations of the district attorney are always considered to be important. I have asked Mr. McLaughlin, who was the district attorney and who personally appeared before the Board of Pardons at that time to be present, and he is here available to testify.

SENATOR SCOTT: Did he give his recommendation, sir, in writing at the time the Board was considering or did he—?

ATTORNEY GENERAL McBRIDE: I gave them personally before the Board of Pardons and a stenographic transcript of those recommendations was made, and that transcript is, in part, the reason that Mr. Wright relied upon in this next to the last column where he says, "D.A. Recommendation." You see Mr. Hean and members of the Board of Pardons takes notes as the district attorney appears, whether he opposes or favors or has no recommendation, and the Board itself makes notes and so does the Secretary, and the stenoghapher takes down exactly what is stated.

MR. KOHN: You remember I read part of the record in the Martin case. Do you want everything put in, what the D.A. said, what the judge said? I will be glad to do it. It is impossible to do what Mr. Yosko asked.

CHAIRMAN TOMPKINS: What I am getting at is, that it would be too time-consuming and too costly to have it transcribed as part of the record, all files, but certainly the files should be available to this committee to review when they make their findings in order that we do not miss anything in connecction with the facts that appear in the files themselves.

ATTORNEY GENERAL McBRIDE: I can only say I join the committee in this, that if you put only two or three facts in you get a bare skeleton, but if you include the whole course of the proceedings, as has been suggested, you see the whole proceeding right before you, seeing all the facts that the Board of Pardons considered, and then if you put yourself in their position you are in a better way of judging, even though, as I have said before, you would be reviewing their discretion.

CHAIRMAN TOMPKINS: General, I think that you will agree with me that just one witness cannot cover the whole field, we have got to develop that with other witnesses as we proceed.

ATTORNEY GENERAL McBRIDE: Well Mr. Hean could cover it or Mr. McLaughlin could cover it because this is a whole series of cases, and they are all relevant one to the other.

CHAIRMAN TOMPKINS: Well, very well we will proceed.

REPRESENTATIVE LOPRESTI: One thought: I do not know if it will involve too much time if in each case counsel were to state that in this particular case the judge or the district attorney either recommended or refused to recommend or gave a conditional recommendation, just a brief statement.

MR. KOHN: It is all a matter of record. If you want to do that, I will be glad to.

REPRESENTATIVE LOPRESTI: I do not mean to go into each particular.

SENATOR FLEMING: Mr. Chairman, I think that this contains the information that Mr. Yosko asked for and Mr. Wright did an excellent job, and I do not see that we need anything more. I say that this contains all we need.

MR. KOHN: That is right.

SENATOR FLEMING: I do not see where we need any more than this. I am perfectly willing to accept what Mr. Wright has given us and perhaps our counsel can, in the future, prepare something similar to this.

ATTORNEY GENERAL McBRIDE: We agree that somebody ought to put it in.

SENATOR YOSKO: Senator Fleming, I expect though, as Mr. McBride pointed out, if the whole sequence is in the record, when we review it, it will be there and we will not have to be jumping from one record to another to find out what recommendations was made to the Board. It will be right on the record and as you read it you would be able to analyze it more intelligently.

SENATOR FLEMING: My only thought, Senator, was that this is so concise, Mr. Wright directed this to someone with a fine mental capacity but I do not know that this is all I need to know how to determine the matters.

SENATOR YOSKO: As a matter of fact, I think we ought to have a summary of that kind prepared for every case that is presented to us here.

MR. KOHN: I agree with you there but—

REPRESENTATIVE LOPRESTI: I have one other question. I would like to ask one other question.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Hean, the action of the Board that we were discussing here that occurred after October 4, was not that actually a reconsideration of the Board's action itself and not of the case?

A Reconsideration of the Board's action in the case.

Q And when the Board reconsidered its own action are they required to give public notice under the Constitution?

A I have no such information of any rule or know of any precedent that the Board—

Q So, actually, in this instance, was not the Board reconsidering its own decision and changing its own decision?

A Absolutely, it was reconsidering its own decision.

REPRESENTATIVE LOPRESTI: That is all.

BY MR. KOHN:

Q Mr. McBride made a statement that members of the Board took notes at these hearings, is that correct?

A Well, I have been so informed. I have never inspected a book.

Q Well, members of the Board were all up in your office following the hearing of Monday checking over the notes of testimony as they were transcribed and making notes again, were they not?

A They were up in my office.

Q And they were looking at the notes?

A They were looking over the notes of testimony, yes.

Q And making notes themselves?

A I presume they did. I had other things to do. They were there doing something. What they did I cannot testify to. You can ask them. They are here this morning.

Q You do not know whether they were checking their old notes or just making new ones or what they were doing?

A No, I presume they were doing something with their own notes of testimony that you see. What they were doing I do not know.

Q Did not they ask you to get the notes of testimony out for them?

A No sir; they were laying there on the desk.

Q They were laying there on the desk?

A Yes.

Q You do not know whether they were checking the notes of testimony in the Erie cases as read in the testimony?

A No, sir.

Q Nor whether they had their own notes with them or whether they were making new ones?

A No, sir. They were there and they have prefect freedom, of course.

CHAIRMAN TOMPKINS: I would like to ask a couple of questions of—

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, where is the reasons in the Flatley case?

A The reason for the commutation?

Q Yes. Mr. Hean, there does not appear on the face of this the date on which the final signature of the member of the Board was obtained and became effective, does it?

MR. KOHN: Not on any of them.

A No, it does not.

Q Does your records in any place disclose the final date upon which the final commutation was finally signed?

A You mean by the members of the Board, Mr. Tompkins?

Q Yes.

A No.

Q After this is signed by the members of the Board, then this together with the files go to the Governor, is that my understanding?

A That is correct.

Q Now, do you know the date of the action of the Governor on the recommendation contained in this?

A Yes, the photostatic—

ATTORNEY GENERAL McBRIDE: Is that Flatley?

CHAIRMAN TOMPKINS: This is Thomas W. Flatley we are speaking about now. This commutation was signed by the Governor under date of October 4, 1955.

Q Now when the Board made its decision to commute from one and one-half to one year, were there reasons prepared in that?

A I have no such recollections of ever preparing reasons on the one-year commutation.

Q. Was any recommendations ever forwarded to the Governor on the one year commutation?

A I have no such recollection that it ever was.

Q Does your record disclose that this commutation was forwarded to the Governor and recalled from him on the one year commutation.

A You are thinking of the Flatley case?

Q I am thinking of the Flatley case.

A There was no recommendation submitted to the Governor on the Flatley case and returned by the Governor.

Q Then sometime between the hearing of September, 1955 before, according to your records, the Board did make recommendation to reduce it to one and a half?

A Yes, and then reduced it.

Q Then at a subsequent time reconsidered it and reduced it to eleven months, five days?

A Yes.

Q And upon that reason was prepared and transmitted to the Governor?

A That is correct.

Q Could you tell me from your knowledge whether it is a common practice or has it happened in other cases that the Board has made one decision and then later revised it?

A Yes; it is not a regular practice but it has occurred over the years where the Board has, we will say, commuted a sentence to two years and then they revised their consideration and made it either more or less. Yes, sir.

CHAIRMAN TOMPKINS: That is all I have.

SENATOR SCOTT. Mr. Hean, is there anything in the record or in the files to show that following the first decision of the Board in which they commuted the sentence of Flatley's sentence to one year, is there anything in the records or files in the way of recommendations from the district attorney or the judge showing the

feeling of the writers of those letters, if there were such letters that the recommendation of the Board was not lenient enough and it should be commuted further?

A No; there is no such letter. The only thing we had was the expression of the district attorney made in open hearing in which he—not asked for—a more lenient clemency than the Board actually gave. I am now referring to Mr. McLaughlin, at that time District Attorney of Erie County.

Q What I am driving at is this, sir: I am wondering what motivated the Board. But do you have anything in your files—

A Notes, no.

Q In the way of notes or otherwise—

A No.

Q Which would show the reasoning of the Board in further commuting the sentence from a year to eleven months?

A No, sir. What is in the file is the only thing I have.

FURTHER RECROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Now, Mr. Hean, I would like to go over and review this pivotal procedure to see if I can help straighten it out. You were asked by the committee counsel whether you had any letter prior to October 4 upon which the Board acted to deny a rehearing. Now I ask you to produce that petition and the envelope in which it came that you had opened here.

A The Flatley case you are referring to Mr. —

Q Yes.

A This is the Flatley folder as handed to me by Mr. Kohn.

Q Now you had a letter together with the petition opened in front of you while Mr. Kohn was questioning you. Where is that?

A You see everything here, and I do not see where it is now.

MR. FINNEGAN: It is in the Martin file.

Q Will you get the Martin file?

A This is the Martin file. Here is a letter of October 25; here is a letter of October 14; a letter of October 5th.

Q Now you are asked about the memorandum indicating that on October 4 there was a decision by the four members of the Board refusing a rehearing in the Martin case? I show you such a letter marked "Received October 4, 1955, Board of Pardons."

MR. KOHN: No, now wait a minute. Let us get this straight.

A This was received by him from the Board, not a letter received by anybody else.

ATTORNEY GENERAL McBRIDE: That is right. That is exactly what I said.

BY ATTORNEY GENERAL McBRIDE:

Q It says to all Board members from Frank Hean, and contains, does it not, Mr. Hean, the signatures of all four members indicating their vote on the question of rehearing in the Martin case?

A It does so indicate.

Q And as of October 4, 1955?

A That is correct.

Q Now Mr. Kohn asked you was there anything prior to that upon which the Board acted. I show you an envelope marked "Received September 7, 1955, to the Pennsylvania Board of Pardons, Attention: Pardons Board Secretary"; attached to a petition from a group of friends and neighbors of Mr. Martin. Is that correct?

A That is correct.

Q And that contains a number of signatures?

A Quite a few.

Q Does it contain a request for a further consideration of Martin's case?

A "We ask that this, our petition, be given consideration, at least to the extent that he," that is Martin, "be released to return to his family by the Christmas season."

Q And signed by a number of his friends?

A Oh, by a number.

Q Did it assert any new grounds?

A It asserted no new grounds.

Q Now following that letter of September 7 asserting no new grounds but asking that he be released by Christmas at least, the Board met, then acted on October 4 to decline that rehearing?

A That is correct.

Q Now then, on October 14, 1955, you received a letter from Judge Evans?

A That was so indicated. Indicating we received it on or about that time.

Q That Judge Evans quotes "If you contemplated releasing him at the expiration of his minimum period January 8, I would see no reason for refusal to allow two weeks' further reduction in order that he would be home for Christmas."

SENATOR SCOTT: What was the date of that, sir?

ATTORNEY GENERAL McBRIDE: The date is October 14.

BY ATTORNEY GENERAL McBRIDE:

Q Now after the Board declined to act on this petition by friends and neighbors asking that he be released by Christmas, Mr. Carney then, did he not, present a petition which did recite new reasons?

A They were new reasons of Judge Evans' change of attitude.

Q Is this always considered by the Board to be a significant and new reason?

A The attitude of the sentencing judge is always considered most significant.

BY MR. KOHN:

Q Did you say that represented a change in the judge's attitude, the letter of October 14? Did you say that?

A I said it changed, the judge's attitude.

ATTORNEY GENERAL McBRIDE: I am speaking of the release as to Christmas because what the Board is interested in is the reduction from one year to eleven months and nine days.

BY ATTORNEY GENERAL McBRIDE:

Q Now let us get one thing straight, Mr. Hean. Is not it a fact that the Board commutes nothing; the Board has no power of commutation whatever?

A That is correct.

Q All that the Board does is to make a recommendation to the Governor?

A That is their entire function, to recommend.

Q Did the Board ever make a recommendation to the Governor that the sentence be reduced to one year?

A They never made such a recommendation.

Q Did the Governor ever commute the sentence to one year?

A The Board—The Governor never commuted the sentence. He had no such recommendations before him.

Q And no power therefore to commute it to one year?

A No; our Constitution gives him no power.

Q And, therefore, the reconsideration of the Board from one year down to eleven months and nine days was not a new commutation, was it?

A No. Absolutely no.

Q Representative Bell raised the question as to whether there was a public hearing in granting a new commutation which had been first commuted to a year and then another commutation down to eleven months and nine days. Were there two commutations?

A There was only one.

Q And was there a public hearing on the one that was granted?

A Most emphatically so, held in September of 1955.

Q Did it, therefore, represent merely a change as to the effective date on which the recommendation would apply?

A That is correct. It changed it from one year to eleven months and five days.

Q Now at the same time that Mr. Flatley's case was being considered was Mr. Martin's and other cases involved in this eighteen being considered?

A Yes sir.

Q Did the consideration of the one naturally effect the others on the question of whether some or all would get out before Christmas?

A Yes, I had several where we changed from one year to a month or so lesser than originally we talked over.

Q In other words, that men need not serve over Christmas just to stay in jail a couple of extra weeks?

A A couple days, yes.

SENATOR SCOTT: Are you through, Mr. McBride, with the petition that was circulated by friends and neighbors?

ATTORNEY GENERAL McBRIDE: Yes.

SENATOR SCOTT: May I examine it?

ATTORNEY GENERAL McBRIDE: Yes.

SENATOR SCOTT: That was the petition which was circulated evidentally before—

ATTORNEY GENERAL McBRIDE: Otcober 4th.

SENATOR SCOTT: Before October 4, on which grounds the circulation of the letter was had?

ATTORNEY GENERAL McBRIDE: That is right, sir.

SENATOR SCOTT: I would like to see that again.

ATTORNEY GENERAL McBRIDE: It is in the Martin case. There were not any more.

BY ATTORNEY GENERAL McBRIDE:

Q Now, Mr. Hean, I call your attention to the fact that the commutation of the Governor is dated the 4th day of October. Now in view of the fact that the commutation of the Governor was not actually granted on the 4th day of October, it is clear that that date is not the date of the Governor's signature, is not it?

A I just do not get your question, Mr. McBride.

Q. Well, let me put it this way in a series of questions. Who makes up the forms?

A We fill in the forms.

Q And do you fill in the date?

A We do not put in the date.

Q Who does?

A After the Governor signs it we are informed as to the actual date of the signature of the Governor.

Q Who typed this, do you know, because this is a decision, and you say this is the only commutation and it is a commutation from one and one-half years to a new minium term of eleven months and five days expiring on December 15, 1955? Who typed that day October 4, 1955, in view of the obvious fact, under your testimony, that that was not the date on which the Governor actually signed it. Are these things made up ahead of time?

A This is all made up ahead of time?

Q Which is ——

A This is a Governor's charter or warrant.

Q Oh, and was this information then as to the expiration date filled in after the ultimate decision of the Board was arrived at, that would be eleven months and five days?

A Yes.

CHAIRMAN TOMPKINS: Now, are we trying to attack and discredit the commutation which contains the Governor's signature and seal of the Commonwealth?

ATTORNEY GENERAL McBRIDE: No. of course not. We are trying to explain that this is made up and the date put on it at the time it is drawn up. You see at this time the question of whether or not it was going to be one year or eleven months and five days was not yet ultimately decided.

CHAIRMAN TOMPKINS: Wait a minute. General, are you testifying or what?

ATTORNEY GENERAL McBRIDE: I am telling you what the testimony is. I am explaining your question. You asked me what I am doing and I am giving you an answer.

SENATOR SCOTT: If that October 4 is an incorrect date then what date did the Governor sign it?

ATTORNEY GENERAL McBRIDE: Well, that is what we will find out by additional evidence because it is quite evident, gentlemen, and, in fairness, it happens to everybody, when these things are made up, and it happens in your office and in mine, the date of the official action is put upon it and then the signatures are put upon it.

MR. KOHN: That date is certified by the Secretary of the Commonwealth, James Finnegan.

ATTORNEY GENERAL McBRIDE: Yes, well now is anybody here going to suggest that anything really turns on that question. We are not going to pick at flies, are we?

SENATOR SCOTT: You are going to give us the actual date in question?

ATTORNEY GENERAL McBRIDE: I will give you the actual date if it is within my power to get it and I will submit it to the Board as to these precise questions as to these matters.

CHAIRMAN TOMPKINS: The one thing that I want to clear up in my own mind which is from the statement made by the General here, and I do not understand that anything was brought out by this witness, and that is this: Am I to understand that this commutation was made up and prepared, was in the hands of the Governor and signed by him before the time there had been a final decision to further reduce it from one year to eleven months and five days?

ATTORNEY GENERAL McBRIDE: Quite the opposite, sir, quite the opposite. The statement—the testimony of the witness is that the commutation is prepared. Then when the date of release is decided upon, that is inserted before the Governor signs it but after it is decided upon. That is precisely what he testified to.

BY MR. KOHN:

Q What do you mean by "release," General?

ATTORNEY GENERAL McBRIDE: The date when the man is to be released from jail. This one was made effective December 15, and that would be the date of his release from jail. Now under the testimony it was to be one year as their first consideration had it, and then they reconsidered from the new evidence the idea that instead of getting out on January 6 he ought to get out before Christmas since it made so little difference, and then they decided to let this man out on Christmas, remembering that the District Attorney wanted him to get out even before then.

CHAIRMAN TOMPKINS: What I am trying to get at is this, do I understand that the Governor signs these in blank and then the Board fills them out?

ATTORNEY GENERAL McBRIDE: Oh no, precisely the opposite. That is just what I got through explaining, that the Board makes up this commutation charter and puts a date on it when they act and then after it is sent to the Governor he may consider it for a week, he may consider it for ten hours, he may consider it for one day, he may consider it for as long as it needs to be considered by him, and then he signs it.

CHAIRMAN TOMPKINS: Do I understand that this 4th of October is the date on which the Board transmitted this communication to the Governor?

ATTORNEY GENERAL McBRIDE: No, sir, you do not understand that because that is not the testimony. The 4th of October date that is put on there is an incorrect date because they considered the question on the 4th of October and did not decide to grant anything as of that date. It was later, the precise date we do not as yet have and will unquestionably come when the Board itself is questioned, because it was not until after October 14, when Judge Evans' letter came in asking in addition to Mr. Carney's letter and in addition to the previous petition asking that the man be let out before Christmas, that they took that action. Now yet the October 4 date that had been originally placed upon it was just left on there, it was not changed.

SENATOR SCOTT: General, let me ask this?

ATTORNEY GENERAL McBRIDE: Yes.

SENATOR SCOTT: Following your giving us the outline of the procedure, when is the actual recommendation as to commutation of the Board typed on this certificate?

ATTORNEY GENERAL McBRIDE: The actual date of the recommendation?

SENATOR SCOTT: I do not mean the actual date but when was it done in the sequence of events?

ATTORNEY GENERAL McBRIDE: It is done when the Board signs it usually. It should be done when the Board signs it because the Board does not sign this, the Board does not sign this Charter of commutation at all. The Board signs this separate paper, a copy of which you have, which states their reasons. Now if you get that in this particular case, you will probably see a different date on it.

CHAIRMAN TOMPKINS: There is no date on it at all.

ATTORNEY GENERAL McBRIDE: That is the kind of thing you can get directly from a member of the Pardons Board because, obviously, I cannot testify to it; I was not there; but the Lieutenant Governor keeps a record in his own hand writing of the time every argument starts and the time it finished. He keeps rather a meticulous record and he will be a witness who can tell you definitely the answer to all these things.

SENATOR SCOTT: Well, may I point out, General, on this commutation of the Governor's date, October 4, on the statement of what the claim is going to be, it is quite evident that a particular period of time was inserted and then erased, and then the eleven months, five days was inserted instead. There is an erasure there.

ATTORNEY GENERAL McBRIDE: That may be. I did not examine it closely.

SENATOR SCOTT: If you would examine it closely to see if it was a correction on the date. (showing a paper to Attorney General McBride)

SENATOR SCOTT: Do you feel that I am correct in assuming that something else was in here before?

ATTORNEY GENERAL McBRIDE: It looks that way.

SENATOR SCOTT: I was wondering, in the sequence of events when that would have been.

ATTORNEY GENERAL McBRIDE: That is the thing that Lieutenant Governor can probably explain to your complete satisfaction. I know I cannot. I cannot be going about obtaining dates on documents.

MR. KOHN: May I ask that the Attorney General request the Governor that we get the original on that. I think that is very evident that one year was in there.

ATTORNEY GENERAL McBRIDE: The original of this is in the office of the Secretary of the Commonwealth.

CHAIRMAN TOMPKINS: You may proceed, General.

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Hean, you were questioned also about whether letters were received and any record was made of them. Do you have such a thing known as a cardex file?

A I have a cardex file that covers only the applications that the Board has received in the past twenty years, but no file of letters that had been received by the Board on any particular case; no cardex file of that character.

Q That is, there is no particular record to which you could go to now and answer the question, how many letters did you receive for or against a particular application and from whom?

A I can only refer to the file, we'll say a particular file. We will say it was John Brown, and in that folder would be such letters as the Board received, that is, the Board of Pardons. As a Board, and they would be incorporated in that file.

Q That is where you received letters for the Board of Pardons you put them in the file?

A I put them in the file.

Q Where individual members receive Board of Pardons' letters they sometimes transmitted them to you as part of your notes, and, as far as you know sometimes they do not?

A That is correct.

Q But the ones that they do transmit to you, you put in the file?

A Put it in the file.

Q Has anything been removed whatever from any of these files?

A Absolutely not.

FURTHER RE-DIRECT EXAMINATION

BY MR. KOHN:

Q I still do not get it straight. Who make up the reasons for the commutation by the Board?

A For the Board I make them up.

Q And then they, together with the entire file, is sent to the Governor's office?

A That is correct.

Q And then that together with the prior file is sent to the Governor's office?

A That is correct.

Q Now at that time do you make the Governor's warrant up?

A I do.

Q And do you make up and forward to the Governor the reasons for the commutation and the Governor's warrant completely filled out?

A Yes sir, except for his signature. I do not put his signature on.

Q Not the Governor's signature, but you put in the commutation period?

A The expiration date of the new minimum.

Q That is put in before it goes to the Governor?

A That is correct.

Q You would not know of any change?

A In this particular case that warrant was made up following the meeting. One year was put in. Probably, there was an erasure there, and before the whole folder went to the Governor.

Q You did insert the date that the Governor signed it?

A We are informed as of the approximate date that he signed it.

Q The Secretary of the Commonwealth would then attach his seal to it and put the date of the Governor's signature?

A Not always but he does sometimes. Now in this particular instance I cannot state whether he attached that or whether I put it in, that is, our office put in the 4th day of October. That I cannot answer.

ATTORNEY GENERAL McBRIDE: I have one question about the rehearing procedure.

FURTHER RE-CROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Hean, I show you an exhibit which is attached and marked in its proper consecutive number, 10 P. B.

A six-page memorandum was produced and marked for identification as Pardons Board Exhibit No. 10, March 6, 1957, A.M.O.

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Hean, I show you this Pardons Board's Exhibit No. 10 and ask you whether this is a sample of the way in which letters are received from lawyers which ask for rehearings, the Board meets, considers them and states its position?

A The request for rehearings are always—

CHAIRMAN TOMPKINS: Now wait a minute, just a minute. You say, "Are these samples?"

ATTORNEY GENERAL McBRIDE: Well, here is a particular one. This one was from Mr. Kohn. Since Mr. Kohn has questioned the procedure by which these procedures are heard and granted—

CHAIRMAN TOMPKINS: What Mr. Kohn?

ATTORNEY GENERAL McBRIDE: The committee counsel.

MR. KOHN: I have no objection to that whole file going in because I wanted to have a new hearing on it and I supported my reason.

ATTORNEY GENERAL McBRIDE: I did not think you would.

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Hean, did you get a letter dated June 28, 1955 from Mr. Kohn notifying you that he wanted a rehearing of a case in which the Board had refused the application for commutation dated June 16, 1955?

A Yes; I so received such a letter.

Q And Mr. Kohn stated his reasons?

A He did.

Q Was there any formal petition or answering of all the questions that took place in the original application?

A There was sufficient. The Board—

Q Just answer that question. Was there, in addition to the letter, any formal petition or was it the letter itself?

A It was the letter itself, no formal petition.

Q Now was that letter considered by the Board?

A It was.

Q Did the Board vote upon it?

A The Board voted upon it.

Q Was the vote of the Board two to two?

A Two to two.

Q Was a rehearing granted?

A The rehearing was granted.

Q Is that the typical, normal procedure in such cases?

A That is typical, normal procedure.

BY MR. KOHN:

Q Was a rehearing had in open court or in open session?

A It was requested in July. I have not the September list in front of me.

ATTORNEY GENERAL McBRIDE: We will accept your statement, Mr. Kohn, if you want to make it.

MR. KOHN: There was a rehearing had in open session.

ATTORNEY GENERAL McBRIDE: Certainly.

CHAIRMAN TOMPKINS: I think the whole folder on that should go along.

MR. KOHN: And, subsequently, application was again filed and refused.

SENATOR SCOTT: I think that is not material. It is a question of procedure.

ATTORNEY GENERAL McBRIDE: I do no. think that is important, we are not discussing that.

MR. KOHN: I think application concerned is a customary procedure which you follow? Is that right?

ATTORNEY GENERAL McBRIDE: That's right, that is correct. I am willing to put the folder in but I do not see any necessity of it. I think it is a question of procedure.

CHAIRMAN TOMPKINS: That same procedure has been testified to before.

ATTORNEY GENERAL McBRIDE: And followed by Mr. Kohn.

MR. KOHN: Well, my point I wanted to bring out was whether there were rehearings gran ed upon which there was no public hearing or no hearing held.

ATTORNEY GENERAL McBRIDE: That is a weak question. There is not the slightest evidence to that effect, that there was a rehearing granted apart from a public one. It was a reconsideration of a public hearing

MR. KOHN: All right, I know it.

ATTORNEY GENERAL McBRIDE: Well, that is a big difference.

MR. KOHN: May we see that?

ATTORNEY GENERAL McBRIDE: You certainly may see it, but that is not what you wanted.

MR. KOHN: I want the Governor's warrant the original

ATTORNEY GENERAL McBRIDE: The Governors charter of commutation of which this is a copy? I was going to ask a question about this, may I?

MR. KOHN: Surely.

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Hean, I show you the original of the recommendation that went to the Governor of Pennsylvania. Does that contain the names of all the members of the Board of Pardons?

A It contains the names of all the Board.

Q And showing Mr. Cohen in dissent?

A That is correct.

Q And showing that above recommendations is, "Approved" and signed "George M. Leader"?

A That is correct.

Q Does this go before the charter of commutations is made up?

A We make it up all simultaneously.

Q Now look at this very carefully. The commutation from one and one-half years to eleven months, five days does not that bear evidence right on its face that it had been changed.

A That had been changed. It shows an erasure and one year.

Q Originally it has a "Y". It looked like it had one year?

A It would so appear from the examination of this paper.

Q Was that done before it went to the Governor?

CHAIRMAN TOMPKINS: And is that letter dated at all?

ATTORNEY GENERAL McBRIDE: It is not dated.

BY MR. KOHN:

Q And your records would not show whether the four members of the Board signed that before the change or after the change? Nothing in your record to show that?

A No, except that the Board had acted for eleven months, five days. That paper went before them for their signature. I presume every member of the Board read it, and if I had one year in there instead of eleven months and five days, it certainly would have been corrected.

Q Let us just get back to your procedure, if I may, Mr. Hean, a minute. You testified that you notified the district attorney of the action of the Board in commuting it to one year. You do not make those notifications until such time as the Board has actually signed that recommendation?

A I do not make the notice until the Governor has actually signed.

Q So that what you are now saying is that when you notified the district attorney that the sentence had been commuted from one and one-half years to one year, the Governor and members of the Board had already signed that recommendation?

A If I made the statement that I notified the District Attorney of Erie County that the Board had commuted the sentence from one and one-half to one year that is quite an error because I had received no information from my office, the Board of Pardons' office, until the Governor had signed the warrant.

Q In other words, if you previously testified, as you have, that the district attorney was notified of the commutation being from one and one-half to one year and did not receive notice when it was changed from one year to eleven months, five days you were evidently in error?

A I was, because if I so testified, but I only testified to the fact that when the Governor has signed a commutation we notify the District Attorney and other interested parties that such a commutation has been granted by the Governor, and that notices only go out—

Q Will you please refer to your files and show me a copy of the letter to the District Attorney notifying of commutation?

A The copy that we sent out is a form copy. I can bring down the form and show you.

Q You do not have a form of this one? You do not have any copies with you?

A We do not put a form in the folder. It is a form letter which is sent out together with a marked calendar showing the action of the Board.

Q Do you have any way of checking when that letter was dated?

A No, I have no copy of it. I have only a form letter.

Q Do you have any way of checking when you send those letters out on all cases that come before you and had been—

A You are now thinking of the Erie cases?

Q The ones heard at the same date.

A Following the signature of the Governor when we receive it back from him.

Q I am asking you, do you have any place that you can refer to in your records that would indicate when you sent those letters out?

A No, I do not.

MR. KOHN: All right, I have nothing further.

SENATOR SCOTT: I have one question.

BY SENATOR SCOTT:

Q I am getting back to the procedure, Mr. Hean, this was a portion of the file which General McBride questioned you about. I wonder if you would take this, sir, and look at the envelope which is stapled thereto. The date that the letter was received by the Board is what?

A September. It looks like seventh—sixth or seventh.

Q And the envelope would indicate that the letter came from who?

A From a man by the name of D. Zimmer of Erie, Pennsylvania.

Q Would you look and see if Mr. D. Zimmer is a signer of that particular petition? I think you will find his name on page two as David Zimmer.

A So far I cannot find it.

Q Over on the next page.

A Next page, David Zimmer 900 East 27th Street, I think, Erie, Pennsylvania.

Q And what does he give as his occupation? Is not that alleged there after the signature of his name?

A He is an insurance salesman.

Q Now the question I have, Mr. Hean, is, is it not a practice for the Board, upon receipt of a petition signed by many persons or a few persons or on receipt of a letter, is it normal practice then for the Board to take up under consideration the rehearing of a particular case?

A If we receive—Let me answer it this way: from an attorney only one letter would be necessary under his own signature.

Q Would that have to be the attorney who was a matter of record?

A Not necessarily.

Q Would it be a formal letter asking for a rehearing, more particularly, an application.

A I would say an informal letter requesting a petition and this letter came from quite a few citizens, maybe twenty or twenty-five of them from the city of Erie.

Q But not through an attorney?

A Not through an attorney, no.

Q And now my question again is, is it normal practice for the Board to reconsider or to rehear an application under situations such as that?

A I would say this: we received a few of them but when we do they are considered by the Board as valid requests from representative people and they are considered by the Board. It is not usual but when it is such a valid instrument like this, then the Board considered it.

Q Now, if there were five signatures on that petition, would that be a valid request?

A Well now, you are asking me for a guess, Senator. I do not know. I would say if he was a bank embezzler and he had the signatures of five bank presidents, I think the Board would consider that, but here is some twenty odd signatures of twenty-five, I would suggest, respectable persons in the City of Erie.

Q How large is the city of Erie, do you know?

A It is nearly a hundred thousand, my recollection.

(A voice: A hundred forty-five thousand, the third largest in the State.)

BY MR. KOHN:

Q Following along the same line, where there is a record the Board has ever refused, that you know of, to consider rehearings or his petitions and then subsequently granted petitions like this one we are referring to?

A I have no present recollection of such instance.

Q Do you have any recollection of any cases where the Board has refused an attorney and then someone else made a request, from an individual, some official, in the first place, and a hearing was granted?

A I have no such recollection. I would say it was not.

Q Did you say there was not?

A I will not say there was not because I am not on the Board.

Q Would that be the practice of the Board to refuse the attorney for the applicant and then subsequently, upon receipt of request, from somebody else, would they grant that rehearing then?

A They have the power to do it but I have no recollection of it.

ATTORNEY GENERAL McBRIDE: That would be anti-lawyer, would not it?

SENATOR SCOTT: They did not turn down the application here after considering it. I was wondering whether they even considered it under a procedure such as this

ATTORNEY GENERAL McBRIDE: The testimony is they did. The lawyers signed a formal and these other groups.

BY SENATOR SCOTT:

Q My records show that there was a petition away back in June and it was an application with an attorney with a petition that was refused at that time, is that correct?

A You are talking about the Martin case?

Q Yes. I am talking about the same one everybody else is, Martin.

A I think a man by the name of Carney—

ATTORNEY GENERAL McBRIDE: The man had been in about five months.

BY MR. KOHN:

Q I show you a photostat of a letter dated August, 1955 which was written by you to the District Attorney of Erie County setting forth the cases which had been acted upon by the Board at the previous session? Is that a photostatic copy of this letter?

A I would say it was.

Q And that is on Department of Justice stationery, is it not?

A The Board of Pardons Division, yes, sir.

Q And would not you have in your files a copy of the letter in the Flatley case that is imilar to that?

A Well, if it is not in the file, I would not have it, sir.

Q Did you dictate that letter?

A I do not think that is a dictated letter, no sir, just a form letter.

Q Is that just a form letter?

A Yes.

ATTORNEY GENERAL McBRIDE: You see it does not have Flatley on it. You are asking if he dictated it in each case. It does not indicate that there is a special letter in the file.

BY MR. KOHN:

Q It is a letter you sent out to each county district attorney in which he informed them what happened. It is a form letter in which you inserted names, but the rest of it is all printed?

A That is right. It is not a dictated letter.

ATTORNEY GENERAL McBRIDE: I have an announcement from Mr. Finnegan to satisfy the Board on this matter. He informs me that the original of the Governors charter of commutation is sent to the county jail or the place of confinement, whether it is a pentitentiary or otherwise, which authorizes him to release, and that is why Mr. Finnegan does not have the original of this. In charter of bond cases it is sent to the man himself, who is usually already out of jail. Now we would be delighted to commuicate with Mr. Flatley, who was in the Erie county jail, was he?

MR. KOHN: Allegheny.

ATTORNEY GENERAL McBRIDE: I shall be delighted to communicate with him asking him to forward, for the court's information, the original of this charter and I will produce it if he forwards it to me.

CHAIRMAN TOMPKINS: Well, General, in view of the testimony of Mr. Hean in connection with this document which is the reason filed by the Board of Pardons and signed by them and the Governor, there were erasures striking out one year and eleven months and inserting eleven months, five days. Would you agree that there was also such an erasure existing in the warrant?

ATTORNEY GENERAL McBRIDE: I agree with that without the production of the original. As soon as I looked at it I agreed with Senator Scott that it gives the appearance of eleven months, five days having been squeezed in in approximately the place that it would take for one year. That seems to be so and there is an obvious similar change on this as the testimony shows they had first considered a year and then reconsidered, but not granted two commutations. It would require an intermediate public hearing. That was Representative Bell's question.

SENATOR YOSKO: Mr. McBride, because of this erasure there that changes the time for which the prisoner was commuted, I think we ought to get on the record testimony from the Board members.

ATTORNEY GENERAL McBRIDE: So do I.

SENATOR YOSKO: So that they actually did make a change, so we would know whether or not somebody tampered with it.

ATTORNEY GENERAL McBRIDE: A highly pertinent observation. The members of the Board are here and have been here for every minute and will submit themselves for questioning the instant the committee decides to question them.

SENATOR YOSKO: May I make a suggestion to the Pardons Board: that hereafter if and when they do grant a commutation which indicates a certain period and upon reconsideration it is changed, instead of using the erasure method of making the change, re-type it so that this sort of thing does not enter the controversy.

ATTORNEY GENERAL McBRIDE: Senator, that is highly desirable, but may I point out to you just one statement: that if there was anything wrong about it, the easiest thing in the world would have been to retype the whole thing to make it look perfect. The fact that there is an erasure shows that there was nothing wrong about it, except the method you suggested is the better method.

SENATOR YOSKO: Because there is an erasure on it it has given those fellows something to write about.

ATTORNEY GENERAL McBRIDE: That is the lazy mans way of doing it.

BY SENATOR SCOTT:

Q If those erasures were made, regardless of when they were made, would they have been made under your jurisdiction and suprvision?

A Oh, yes.

BY CHAIRMAN TOMPKINS:

Q Do you know who made the erasures?

A Well, I know that the stenographer then made them at my direction.

Q You are the one who directed those erasures?

A Undoubtedly.

BY SENATOR YOSKO:

Q And did you direct the stenographer to make the erasures at the direction of the Pardons Board?

A Certainly.

BY REPRESENTATIVE BELL:

Q Mr. Hean, do you have one secretary or more than one?

A I have one stenographer and one clerk. I have two persons in the office.

Q Does one person handle all this work?

A Yes.

Q Does he use two different typewriters?

A We have four broken-down—

ATTORNEY GENERAL McBRIDE: Can I make a plug here for our appropriations?

BY CHAIRMAN TOMPKINS:

Q Now, Mr. Hean will you tell us were those erasures made before or after the Governor attached his signature to those documents?

A They were made before the Governor signed his name to the recommendations and to the charter.

BY REPRESENTATIVE BELL:

Q I think for the purpose of the record I would like to point out to Mr. Hean that the—do you call that a charter?

A I am used to calling it a charter of pardon. It is a warrant. I believe it is also called a warrant of commutation.

ATTORNEY GENERAL McBRIDE: It is also called a warrant.

REPRESENTATIVE BELL: The warrant also shows that the typing was by two different typewriters.

ATTORNEY GENERAL McBRIDE: I do not doubt that. Now you take care of our appropriations.

THE WITNESS: I would like to have an electric typewriter.

CHAIRMAN TOMPKINS: Why, at this point I would like to get the document here verified for the benefit

of the members of the committee if Mr. Wright would verify this document.

ATTORNEY GENERAL McBRIDE: Victor Wright, Esquire. Do you want to call him?

CHAIRMAN TOMPKINS: I would like to call him to verify this document.

ATTORNEY GENERAL McBRIDE: Normally, a statement made at a public hearing is accepted. He has no objection at all to testifying under oath and perhaps we should apply the same principle. When Mr. Kohn makes a statement I accept it.

MR. KOHN: I have no objection to them going in the record.

CHAIRMAN TOMPKINS: You are of counsel here.

ATTORNEY GENERAL McBRIDE: All right, so is Mr. Wright.

CHAIRMAN TOMPKINS: That is all right, we will take the gentleman's certification.

ATTORNEY GENERAL McBRIDE: He is a Deputy Attorney General and formerly as Assistant District Attorney in Philadelphia and, if I may plug him, also a very capable man.

MR. WRIGHT: Thank you, boss.

CHAIRMAN TOMPKINS: Very well. We will accept the brief statement regarding the record.

MR. KOHN: I would like to call another witness on a short matter.

CHAIRMAN TOMPKINS: Yes, we will take one not too long here.

DAMIEN McLAUGHLIN, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q Now your name is Damien McLaughlin and you are former District Attorney of Erie County?

A That is correct.

Q How long were you district attorney?

A Ten years.

Q You are now Assistant District Attorney, are you not?

A That is correct, sir.

Q Under District Attorney Herbert Johnson?

A That is correct.

Q I want to call your specific attention as to whether or not you received a notice from the Board of Pardons advising you that the sentence of Thomas W. Flatley had been commuted to a period of one year.

A Yes, to my recollection I did receive such a notice.

Q And subsequently thereafter. Did Mr. Carney, the Attorney for Mr. Flatley, come to see you about whether or not you objected to any further reduction of that sentence.

A I am positive that Mr. Carney talked to me about that Mr. Martin.

Q Not Martin. I am talking about Flatley now.

A He talked to me about both of them, about Mr. Martin and Mr Flatley, and I told him I had no objections if they released them before Christmas.

Q Was this after you had received notice that Flatley's sentence was commuted to one year?

A To the best of my recollection, yes.

Q And after that was Flatley left out in eleven months, five days, as far as you know?

A Well, I have no formal knowledge of it.

BY ATTORNEY GENERAL McBRIDE:

Q Mr. McLaughlin, in connection with this list I should like to—

MR. KOHN: No, Mr. McBride, I would object to any question except along this line.

ATTORNEY GENERAL McBRIDE: Well, may it please the Committee, I was informed that we were not going to proceed with strict court procedure. What is is wrong with my attempting to elicit from Mr. McLaughlin this question? What is wrong with whether I ask him did he make certain recommendations and so forth.

CHAIRMAN TOMPKINS: Well, if he is going to become a witness for the defense, then that is one thing, and if you are going to cross-examine him on matters he has testified to.

ATTORNEY GENERAL McBRIDE: I will accept any view of that highly technical question you choose to take. I am satisfied that Mr. McLaughlin will tell the truth and I am willing to be bound by his testimony just as if he were my own witness.

CHAIRMAN TOMPKINS: I will not question the man's integrity.

THE WITNESS: I would prefer to testify now so I do not have to come back to Harrisburg.

REPRESENTATIVE LOPRESTI: Mr. Chairman, if we deny such privilege to the Attorney General, then the same should be denied to the Committee. If I remember correctly, we read into the record a statement, a rather elegant plea written into the Pardons Board on behalf of Mr. Martin. That plea was made on behalf of Mr. Martin. That plea was made in connection with the hearing held before the Board on I forget what date—the entire remarks of the General were read into the record, and I think that since we have gone that far we certainly should have the right in this committee to ask what recommendations and what arguments were made in respect to the other defendants as they appeared before the Pardons Board.

BY REPRESENTATIVE LOPRESTI:

Q I would like at this time to ask whether—What is your name, sir?

A McLaughlin.

Q Appeared before the Pardons Board and also recommended clemency for other defendants?

A In some cases I did, yes.

Q In some cases you did, and did you refuse in certain cases?

A That is correct.

Q And did you argue against their commutation?

A In some cases, yes.

Q Can you tell us which cases you approved and which cases you disapproved or, rather, did not recommend clemency?

A Mr. Wright, may I have a copy of that, please?

MR. KOHN: I think you should finish one question upon which I called him before you get into collateral matters. You talked about collateral matters and now you are in this. I would prefer that the Board examine him on the portion I examined him about.

ATTORNEY GENERAL McBRIDE: Well, perhaps Mr. Kohn will inform the committee and the Attorney General what it was that you brought out by Mr. McLaughlin that you would prefer to exhaust first.

MR. KOHN: I brought out that Mr. McLaughlin received a letter from Mr. Hean showing this commutation of Flatley's was for a period of one year and subsequently Mr. Carney came to him and asked him that in both cases of Martin and Flatley whether or not he would have any objection if the Board made a further commutation.

ATTORNEY GENERAL McBRIDE: It is not a further communtation, Mr. Kohn.

MR. KOHN: Well, a further reduction in the sentence. Now is the Board making any questions?

BY CHAIRMAN TOMPKINS:

Q What is your recollection Mr. McLaughlin with reference to the time when you had that conversation with Mr. Carney?

A It would be very difficult for me to place that date. Possibly if I could talk to Mr. Carney he would remember it. I would say it would be along in October sometime.

Q Was it prior to the time you received any notice from the Pardons Board regarding their actions in any of these cases?

A As I recall that I had received notice of the action at the time Mr. Carney talked to me that it so happened that both would get out shortly after the holiday season, and Mr. Carney asked did I have any objection if he tried to get them out for the Christmas holidays, and I told him I had no objection.

Q Your recollection then is that you first received a letter stating one year, is that correct?

A That is correct.

Q And after you received that letter is when Mr. Carney called you and talked to you?

A That is correct.

BY SENATOR SCOTT:

Q Would that letter be in your file back in Erie County?

A There would be no reason for us to keep it. If it was kept it would be only incidentally because after a case has gone that far, the district attorney has nothing to do with it.

BY REPRESENTATIVE BELL:

Q Do you recall who signed the letter from the Pardons Board?

A No. I do not. It was a form letter I know.

ATTORNEY GENERAL McBRIDE: Finished?

BY ATTORNEY GENERAL McBRIDE:

Q Do you recall, Mr. McLaughlin, clearly that it was a letter?

A It was a form of some kind, not necessarily in the form of a letter but giving me the information that Flatley's sentence had been commuted to one year.

Q Let me just indulge in a little more precision. You were not informed that it had been commuted, had you? That is. we both recognize that commutation is by the Governor.

A Yes.

Q You had not been informed that the Governor had signed a warrant of commutation, were you?

A No.

Q Merely that the Board of Pardons had so recommended?

A I could not tell you; I cannot rely on my memory to the extent to tell you that.

Q But you had conferences with Mr. Carney and you told him to the effect that if the Board was going to let these men out right after the first of the year you saw no reason why they should not get out before Christmas?

A That is right. That is correct.

Q Now, as to political influence—you were and are a Republican, are not you?

A That is correct.

ATTORNEY GENERAL McBRIDE: Now as to the others matters I wanted to go into, the Board had a little consultation among themselves and I do not know what your ruling is, if you did rule as to whether I could ask him about these other cases. Since they were all considered, I think he would agree that he considered them as one affecting the other cases, and the Board did. Now I would like to go into those other cases.

REPRESENTATIVE LOPRESTI: Can't he make a general statement on it?

ATTORNEY GENERAL McBRIDE: Well, it will not take long.

REPRESENTATIVE LOPRESTI: I have no objection. We are here to get as much information as we can and I see no objection.

SENATOR YOSKO: Mr. Chairman, I see no objection to it.

ATTORNEY GENERAL McBRIDE: Senator Fleming?

SENATOR FLEMING: Well, Mr. Chairman, I certainly feel that Mr. McLaughlin being summoned here or asked to come here by Mr. McBride was highly irregular. I mean I think you should not have—

ATTORNEY GENERAL McBRIDE: Irregular?

SENATOR FLEMING: —asked him if he would come and testify today without clearing it with the Board first, but now since he is here, I certainly think that we should give an opportunity to the General to ask the questions that he wants, so that we do not inconvience Mr. McLAUGHLIN, who has come about 300 miles to be in attendance. I think we should let the gentleman go ahead, and if I may suggest to the chairman that he does not bring in witnesses on us in the future without first clearing it with the committee.

ATTORNEY GENERAL McBRIDE: Senator Fleming. there is no rule of morality, decency or justice or anything else that prevents a man from asking a man to come. I did not subpoena or attempt to subpoena Mr. McLaughlin, and what the Senator Fleming says seems to me to be without precedent. I never heard such a suggestion before, that man cannot ask another man to come here. Certainly—

MR. KOHN: I think he said that in the sequence of witnesses you asked him to come, the sequence should follow upon sequence you agreed upon. I do not think he meant you did not have a right to ask him to come.

BY SENATOR FLEMING:

Q Mr. McLaughlin did you have the impression that

you were coming here to testify before this committee today?

A Yes, I was requested to be down here at 9:30 this morning.

ATTORNEY GENERAL McBRIDE: That is right. Now if the committee following its normal procedure, when we finish up with the Erie County cases it was understood that I was going to be allowed to call witnesses. I did not tell Mr. McLaughlin that he would go at 9:30, but, certainly, if I want to ask anybody to come here I hope you are not suggesting there is anything improper in that, that when my turn comes to call a witness, I cannot call a voluntary witness. He has been called by Mr. Kohn. Why not let him finish whatever light he can throw upon that situation?

SENATOR FLEMING: I suggest that, but I say to you, sir, that this is a legislative investigation committee and we will lay down the rules, sir, on which we will investigate. That, sir, is an right inherent of ours.

ATTORNEY GENERAL McBRIDE: If you say that that is an inherent right of this Legislature to tell the Attorney General of Pennsylvania that he cannot voluntarily call a witness to come here, I will say I will violate that rule. Why, I can ask anybody I please to come before this State Legislature.

SENATOR FLEMING: I say you have no right to tell the Legislative committee how they shall operate.

ATTORNEY GENERAL McBRIDE: I am not trying to.

SENATOR FLEMING: Your remarks are entirely out of order.

ATTORNEY GENERAL McBRIDE: My remarks are not out of order anymore than yours are out of order.

SENATOR SCOTT: I think, Mr. Chairman, that the situation has become involved because Mr. Kohn himself, who is our commmittee counsel, put the witness on the stand, and I think the General realizes that he must wait until this committee and its counsel has presented all of the facts that they desire to present or desire to hear, and then he will have an opportunity at the end of that time in the series of county cases or one particular case that we may have concluded, I am saying that you will then have an opporunity to bring people in.

ATTORNEY GENERAL McBRIDE: Precisely—

SENATOR SCOTT: My situation is that as long as our own counsel has put this witness on the stand, I can see no reason and I agree with Senator Fleming, that as long as he is there, and there because this committee has put him there, he should go ahead and allow the General to cross-examine.

CHAIRMAN TOMPKINS: If this Committee were binding itself by strict rules of evidence and court rules, the position of our counsel would be correct. I think the Attorney General would agree with that.

ATTORNEY GENERAL McBRIDE: I do so agree.

CHAIRMAN TOMPKINS: But we are not bound by the strict rules of evidence before this legislative committee, and we have the full powers of a legislative investigating committee granted to us by the General Assembly. We do not propose to violate any rules as we understand and interpret them, in our procedure, but inasmuch will, as our own counsel put him on the stand, although I believe he was called here by the Attorney General, we will let him proceed at this time.

SENATOR YOSKO: Mr. Chairman, may I make this one observation? I want in the future, however, to state that if there is a witness who is called that gives us certain limited information which the committee itself is trying to elicit from the witness, I do not think that we should go into a general discussion in connection with matters that our Attorney General may have desired the witness to be called for in the first place.

SENATOR YOSKO: Mr. Chairman, may I make an observation? In my opinion, I think the Attorney General or any member of the Pardons Board or even myself or any member of this committee can ask a prospective witness to attend a session, and that is no more than the Attorney General did today, but this whole controversy would not have arose if Mr. Kohn would not have called Mr. McLaughlin to testify. If the Attorney General would try to force us to hear Mr McLaughlin out of sequence, then I would say that there would be ground for objection, but since our own counsel called Mr. McLaughlin and since he is here and since I assume he wants to get back to Erie, I agree with Mr. Fleming and Senator Scott—I agree—that while he is on the stand we ought to finish with him.

MR. KOHN. Mr. McBride, may I ask the witness one question before you get on to something else?

ATTORNEY GENERAL McBRIDE: Yes.

BY MR. KOHN:

Q Mr. McLaughlin, you heard Mr. Hean testify that he never sent these notices of commutation out till such time as they had been recommended by the Board of Pardons and signed by the Governor.

A Yes.

Q Do you know of any instance, because such has been suggested by the Attorney General, that you were notified in advance of the Board's action before they signed the commutation?

A I know of no such instance.

CHAIRMAN TOMPKINS: I would like to ask Mr. Hean to get for this committee a copy of the form letter which he has suggested that he sends out to district attorneys regarding action of the Board.

THE WITNESS: Do you want it now or shall I bring it into the afternoon session?

CHAIRMAN TOMPKINS: Bring it into the afternoon session. Now I want a copy of the form letter which he claims he uses.

MR. KOHN: Yes, I would like to see it too.

ATTORNEY GENERAL McBRIDE: May we also ask that a search be made by Mr. McLaughlin of the files of the District Attorney's office to see if that letter is here. Normally, the letter speaks for itself, and if there is such a letter it should be produced. Well, I know in fairness these gentlemen will be glad to produce it.

MR. KOHN: We will be glad to produce it. We did not know this thing was going to come up this morning.

THE WITNESS: If I have it, I would be glad to produce it. Whether the letter sent to me gave me the exact date of commutation or not I could not swear, but somewhere or other I must have had in my mind the sentence was to expire in June because I do definitely recall my conversation with Mr. Carney about getting him out before Christmas.

BY ATTORNEY GENERAL McBRIDE:

Q But right at this moment you would not want to say that you did have such a letter, would you? It just came to your attention whether through Mr. Carney or through another statement at this time you are not certain?

A I am not positive about that statement.

BY SENATOR YOSKO:

Q Was Mr. Carney the Attorney for the applicant for the commutation?

A Yes.

BY ATTORNEY GENERAL McBRIDE:

Q Did he represent Flatley?

A He represented both Martin and Flatley before the Pardons Board.

BY REPRESENTATIVE BELL:

Q Are you positive that you received a letter from the Pardons Board stating that the commutation in the Flatley case, that it would be to one year?

A I received a letter that it had been commuted but I cannot state positively what commutation had been granted. I may have received information that it had been granted from one and a half to one year, from some other source; possibly through the newspapers.

CHAIRMAN TOMPKINS: Is that letter in existence?

ATTORNEY GENERAL McBRIDE: If we have it, we will produce it, and if they have it, they can produce it.

MR. KOHN: Mr. Attorney General may I suggest that Mr. Hean, who sent the letter out, also check his files.

ATTORNEY GENERAL McBRIDE: Well, now you say he sent the letter out. If he did send such a letter out and if we have any record of it, I state to the Board it will be produced.

MR. KOHN: He said he sent the letter out.

ATTORNEY GENERAL McBRIDE: But he did not say he sent a letter out stating it was a year.

MR. KOHN: You just get from him what he sent out. That is all that I am asking.

ATTORNEY GENERAL McBRIDE: I promise that I will if it exists, and the District Attorney's office will also produce any such letter if they have it.

MR. KOHN: Certainly it ought to exist.

ATTORNEY GENERAL McBRIDE: It ought to exist if such a letter was sent out prior to the eleven months, five days' letter.

SENATOR SCOTT: Well, was there an eleven months, five days' letter?

ATTORNEY GENERAL McBRIDE: That I do not know.

SENATOR SCOTT: You mentioned that there was. It was my impression you said that. What are the eleven months, five days' letter and in my opinion there was no such letter.

ATTORNEY GENERAL McBRIDE: Well, then if there was not an eleven months, five days' letter it is hardly likely that there was a one year letter.

CHAIRMAN TOMPKINS: You are testifying again.

ATTORNEY GENERAL McBRIDE: Mr. McLaughlin stated as of now he is not sure whether he got it through a letter or through other sources or through a newspaper. Both of us must deal fairly with the Board, and if we have such letter, whether it helps us or hurts us in this instance, I promise you on my honor it will be produced. I know that the District Attorney's office will produce it if they have any such letter for whatever light it can give.

SENATOR YOSKO: Is there any further questioning?

ATTORNEY GENERAL McBRIDE: Yes, I have. The committee having ruled that I may ask Mr. McLaughlin these questions, I would like to ask him about these cases.

BY ATTORNEY GENERAL McBRIDE:

Q Now, Mr. McLaughlin, you appeared before the Board after notice, didn't you?

A That is correct.

Q And the case was argued by Mr. Carney on behalf of Mr. Martin.

A That is correct.

Q And what position did you take in respect of Mr. Martin?

A I asked that the Board pay attention to what Mr. Carney had said, what he said was correct, and I also had few additional reasons why I thought he should be granted a commutation.

Q Are you familiar with the recommendation of the judge or the trial judge on the Martin case?

A No; I am not.

Q Consulting that record, have you any reason to believe that that record is incorrect—the notes we have—as to the judge's recommendation after refusal by the Board?

A No, sir; I have no knowledge of that.

Q Now, we have had in evidence the letter of Judge Evans favoring his release prior to Christmas. You certainly, in view of your earlier recommendations, favored that much at least, didn't you?

A I certainly did; yes, sir.

Q Now, in respect of Mr. Flatley, we have a notation that the judge left the matter entirely up to the Board. Is that your own recollection of the matter?

A I have no knowledge of what the judge was recommending in that matter.

Q Now as to your own position as to Mr. Flatley. What was your position?

A I think that my position—I feel now about it as I did that day, if I can remember that I told the Board, I told them how Flatley had been a longtime friend of mine and I thought very highly of him, that as a person I recommended the Board that he be discharged immediately because he certainly had been punished enough in view of having been reduced from such a high station to such a low one, and that I did not think he would ever get in trouble, but the only question involved was the matter of example to others, and, unfortunately, as District Attorney, I could not ask that he be released at that time. I was referring then to the time we appeared before the Board. I think that I did indicate to the Board that I did not have any objection to some commutation of the sentence, but I did not think he had served enough time at the time of the Board's hearing. The record is there. You could see what it is.

BY REPRESENTATIVE LOPRESTI:

Q Was that in June?

A No; I believe it was in September, was it not?

ATTORNEY GENERAL McBRIDE: September yes, Mr. McLaughlin.

BY ATTORNEY GENERAL McBRIDE:

Q And was it a fair statement on your position that if clemency were going to be granted to Mr. Flatley that would release him on, let us say, the sixth of January that you would not think it inappropriate that he be released before Christmas?

A That is a fair statement.

Q Now you considered in the recommendations that you made to the Board all these cases together in their interrelationships, didn't you?

A That is correct. I disapproved of the way the courts handled their sentences and I disapproved of the way the Boards handled their commutations insofar as they completely disregarded my statements that people who plead guilty are entitled to more consideration than those who take a chance to stand trial and they are found guilty.

BY CHAIRMAN TOMPKINS:

Q Did you make that statement before the Pardons Board, Mr. McLaughlin?

A Did I make that statement?

Q Yes.

A Yes; I did.

BY ATTORNEY GENERAL McBRIDE:

Q That is, in some instances you felt that both the court and the Pardons Board were keeping these men in longer than you personally thought they should have been kept in?

A That was only two instances in that respect, the one would be Michalski case which we found out after his trial and conviction that he was only a little peanut operator and had only been in business a short time, that he had been gainfully employed for eighteen years at the General Electric. We checked his work records and he had worked every day. This was just a little side line and I thought that he had received too long a sentence from our court and I told the Pardons Board that. The other instance was, I think, in Jack Martins case. Unfortunately, the Board paid no attention to me as far as Jack Martin is concerned.

Q In other words, the Board did not let him out as soon as you would have let him out?

A Yes.

Q Now as to the case of Michalski you recommended that he be released in September?

A That is correct.

Q In September. Well, he was released in seven months and five days, that is, he was released August 22, 1955. He served considerably less than the other men did, including both Martin and Flatley?

A That is correct.

Q And you favored that he receive that consideration, didn't you?

A That is correct.

Q Now, running down a few of the others, with respect to Mr. Adiutori you entered no objection to consideration for him, did you?

A Now, General, this thing of course is in alphabetical order not in chronological order. If you will refer back to the third page, you wil see James Salamone and Dominick Adiutori were partners and bigshot operators, and they had been for a number of years. Adiutori had previously made an application for a reduction of his sentence and he had been granted a commutation to one year, and I did not see any reason for Adiutori serving any longer than Salamone, because they were equally guilty.

Q So that, in respect to Salamone he got one and one-half to three years?

A Yes.

Q Your recommendations is that he should serve one-half of his minimum or nine months?

A That, I believe, is what I said, that he should serve at least half of his minimum.

Q At least half of his sentence?

A Remember, I thought that the June applications in cases like that were a little premature.

Q Yes, and the Board agreed because they made them serve one year?

A That is correct.

Q And in respect of Mr. Adiutori, you made no objection to his being released, did you?

A I believe what I said was that I thought he should receive the same treatment as Salamone.

Q Well he was released in eleven months and five days and Salamone was released in one year. You cannot contend that that was not in substantial accord with your recommendation?

A That was in substantial accord with my ideas, yes.

Q Now Mr. Alessi—in his case he got one to two years and you took the position that at the time of his application you were opposed to it on the ground that he did not plead guilty?

A That is correct.

Q Now, he was not released until nine months?

A He got nine months, the same thing as those who pled guilty. He was reduced to nine months the same as those who plead guilty. As I said before, I am second-guessing the court and the Board. I am of the same opinion now as I was then, there should be some consideration for these men who stood trial; and here is another matter I would like to call your attention to: It was my expectation at the time I appeared before the Board that these men would pay a fine and costs, and these men have never done so and have never been forced to do so.

Q Well, you agreed that when the Board commutes a prison sentence the collection of the fine and costs is a matter for the local authorities?

A It should have been up to the Parole Board in this instance.

Q Parole Board but not the Board of Pardons?

A Not the Board of Pardons. But I want to explain my own thinking. I had in mind that these men were going to have to pay a much greater financial penalty than they did, or I doubt if I would have been as lenient as I was.

Q Your general view at the time of sentencing then was that the sentences to imprisonment should be less and the financial obligation to pay a fine should have been greater.

A And a longer pardon.

CHAIRMAN TOMPKINS: He did not say that.

ATTORNEY GENERAL McBRIDE: But I think he does say it. I am asking him now, do you now say it? Is this correct that you felt that the prison sentences—

MR. KOHN: May I interrupt here?

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I asked leave to put my question and then Mr. Kohn can object.

Q Now my question is this: is this a fair statement of your position at the time of sentencing that the time of imprisonment should not have been as great but the fines should have been more and that superimposed upon both fine and imprisonment there should have been a greater maximum sentence so that they would have been on parole for a longer period of time?

A That was my opinion which was a criticism of our court, which is a risky thing to do, but as an American I can say it and I think the court knows how I feel about it. And I thought the courts did not handle the cases correctly, but they will do so until there is a better method of handling the matter.

BY CHAIRMAN TOMPKINS:

Q Did you state that position to the court at the time sentence was imposed?

A I do not recall exactly what I said, what we told the court at the time, whether I made any general statement. I think each case was handled as it came along. As a matter of fact, it did not make any difference what I said, what the defense attorney said, because they all got the same thing anyway.

Q Did you make that expression as your opinion at the time of the application hearing before the Pardons Board?

A I do not recall if I did or not. It has been my opinion all along. Maybe I expressed it before the Pardons Board; I cannot say.

Q I think it is quite important to this committee we do not care about your review of the case. It is your statement to the Pardons Board that may have influenced their decision.

A I do not believe I stated that to the Pardons Board. I may have but I do not believe I did.

CHAIRMAN TOMPKINS: We would like to confine these matters to statements which he made to the Pardons Board and not what his present thoughts are, General. I think that is only fair.

BY ATTORNEY GENERAL McBRIDE:

Q Now, there were stenographic notes taken of both Mr. Carney's presentation and your own.

A That is correct.

Q I have been informed and I now suggest to you that to a degree you did present that to the Board of Pardons as being your own opinion. Do you feel strongly that that suggestion is incorrect?

A I do not understand the question?

Q I suggest to you that you did state the view you are not stating to the Board of Pardons openly. Do you have any recollection, actually, that you did not?

A No, I would have to rely on the records of the Pardons Board.

CHAIRMAN TOMPKINS: Let us get the records and let the records speak for themselves.

THE WITNESS: I had your records yesterday but I do not recall whether that is in there or not.

ATTORNEY GENERAL McBRIDE: These records will be available to the committee.

CHAIRMAN TOMPKINS: We do not want to get this man's view now as to what he thinks it should be, because that is not important to the committee.

ATTORNEY GENERAL McBRIDE: If his views then were the same as they are now and actually what he said will be in the transcript.

CHAIRMAN TOMPKINS: I do not want to have his unexpressed opinion, but I want to get his expressed opinion before the Pardons Board, which may have been the basis for imposing their decision.

ATTORNEY GENERAL McBRIDE: I agree with that and I am suggesting to him that he did express the same view. Now if the committee will have before it the transcript of precisely what was taken before the Board of Pardons—

CHAIRMAN TOMPKINS: Well, we have to call witnesses.

ATTORNEY GENERAL McBRIDE: I am trying to do it by some kind of testimony here so that the committee will know.

MR. KOHN: Mr. McBride, there is an objection I would like to make and it is this: What you are asking this witness, as your own witness to testify to is what he said compositely in eighteen cases, and he testified in the beginning that his views on each case were different. In some cases they applied to two cases; in some cases they applied to one. I would respectfully ask the committee to rule in these cases where you are asking the witness to quote himself that you cite for us what case, because otherwise with eighteen defendants having been heard, and Mr. McLaughlin did not represent the Commonwealth in all of those cases, it is going to be difficult for us to find out what his attitude was in any particular case. Otherwise, his testimony is of no value.

ATTORNEY GENERAL McBRIDE: I am doing precisely that. Mr. Tompkins.

MR. KOHN: What case were you referring to on these fines?

ATTORNEY GENERAL McBRIDE: A general statement made by him which has been applicable to all cases. Now if it was stated generally that is the only way to do it, but I am running through these individual cases to get Mr. McLaughlins statement as to what he told to the Pardons Board.

MR. KOHN: Mr. Chairman, may I respectfully suggest that if he is going to take each case, that he take each case of Mr. McLaughlin's, as to what he said on that case, or let the record speak for itself, because it is impossible to go through a record like that and find out what this man said in each particular case. I do not think he could remember it. I have no objection to the Attorney General putting it on, but having him make a general statement applying to eighteen cases is incorrect for the simple reason that Mr. Johnson recommended in some of the cases, and you cannot apply this whole thing generally.

CHAIRMAN TOMPKINS: Well, I do not believe that a composite statement of what a witness says now regarding what has gone on prior is of interest to this committee. What we are interested in is what view he expressed to the committee at the time, what views he expressed to the Pardons Board when these cases were up for hearing, what views, if any, did he express by way of written communication to the Pardons Board.

ATTORNEY GENERAL McBRIDE: I agree with that thoroughly, but he made two different kinds of statements, one generally applicable to the whole situation and one as to each one of the defendants. I have covered the general statements. I just want to go through hurriedly each one of these individual cases, some of which were entirely different. I am going to do precisely what the chairman thinks is proper. I believe I am doing precisely what Mr. Kohn thinks is proper.

MR. KOHN: Pardon me, Mr. McBride. There is another point I would like to make. It is now on the records that all testimony in the September 1955 cases is missing. I want to put that in the record now. Those are the ones I think, Mr. McBride, that were taken and not transcribed.

ATTORNEY GENERAL McBRIDE: Don't we have the September 1955 cases, Mr. Hean?

MR. HEAN: They should be here somewhere.

ATTORNEY GENERAL McBRIDE: That statement was that the records were not then available; they are now available. And I asked Mr. McLaughlin yesterday to refresh his recollection by looking at any of the records that he wanted to look at. Mr. McLaughlin did avail himself of that privilege by looking at the stenographic records and September was among them.

MR. KOHN: Where did they appear from? We asked for them for a previous case and you said they were not transcribed.

ATTORNEY GENERAL McBRIDE: I did not say anything. Now let us proceed in an orderly fashion and we will give you the explanation of where they were, where we got them and so forth. Now Mr. McLaughlin—

CHAIRMAN TOMPKINS: Are all those transcripts of that September meeting now available?

ATTORNEY GENERAL McBRIDE: I think that they are in this room. Where are they Mr. Hean, September 1955?

MR. HEAN: Here is part of September.

ATTORNEY GENERAL McBRIDE: Well, here is the information involved in this case. They are in this room before the Board of Pardons, the Commonwealth of Pennsylvania September 22, 1955, including these cases.

CHAIRMAN TOMPKINS: Now, which particular session of the Pardons Board was it that Mr. Hean told us that these notes were taken but they were never transcribed?

ATTORNEY GENERAL McBRIDE: September, Delaware County Cases. Remember that Mr. Hean said that part of them were transcribed and part, due to the illness or something else of the official reporter, were not transcribed. These were. The chairman is temporarily confusing Delaware County with Erie County cases.

MR. KOHN: I am sorry. I knew that the Erie County cases were not fully transcribed, but I could not understand—

ATTORNEY GENERAL McBRIDE: Delaware County.

MR. KOHN: I could not understand why part of them were here and part of them were not.

ATTORNEY GENERAL McBRIDE: It was explained that part of them were done and part—

CHAIRMAN TOMPKINS: Go on, Go on.

BY ATTORNEY GENERAL McBRIDE:

Q Now, Mr. McLaughlin, Edward Camilli—you made a favorable recommendation on that?

A Edward Camilli was one of the police officers who was serving on the vice squad who was taking these bribes, and the other, of course, was the honest police officer, Russell Vergo. Camilli is rather a pathetic soul. We felt sorry for him. He did cooperate with us to some extent as far as furnishing evidence against some of these bribe givers, and, consequently, my opinion of him was favorable.

Q And he was released in nine months?

A That is correct.

Q Now Mr. Czulewicz, you were opposed to that at the time it was argued?

A At the time, that is correct.

Q He was not released at the time it was argued?

A No, I do not believe so.

Q But he was released in eleven months and nine days?

A According to this.

CHAIRMAN TOMPKINS: Well, none of these others were released at the time of argument?

ATTORNEY GENERAL McBRIDE: Some were released. For instance, the one that I called his attention to was released in seven months and five days, the one he described as a little peanut operator or something like that, Mr. Michalski.

THE WITNESS: That is right. He was released earliest of them—seven months, five days. You will find it on the third page.

CHAIRMAN TOMPKINS: The point I was making is that in none of these cases, particularly in the Flatley and Martin cases that we were talking about, they were not released at the time the case was argued, and it was quite sometime afterwards that that Board's action was taken.

ATTORNEY GENERAL McBRIDE: That is right. Yes, so the Board did not grant immediate release.

THE WITNESS: I think the ones released in nine months or less must have been up in the June hearing and not the September hearing.

ATTORNEY GENERAL McBRIDE: Precisely.

BY ATTORNEY GENERAL McBRIDE:

Q Some of them were released earlier because they had been heard in June.

A That is right.

Q Mr. McLaughlin was there at the June meeting too?

A Yes.

Q Now how about Arthur Damore?

A I think Arthur Damore was kept in longer because he had a previous criminal record.

MR. KOHN: May I make a correction on that record for your record? The commutation shows that Arthur Damore was reduced from ten months, five days. I also see an erasure on that.

ATTORNEY GENERAL McBRIDE: Now then, Mr. Kohn, for the benefit of the committee, the time to which the sentence is commuted does not mean the time at which he is released. He is only released after the Parole Board has heard it, and the time of release is what we have put on here from what information you gave us. The date released—

MR. KOHN: I thought Mr. Wright gave the Board information as to what the sentence was commuted to.

ATTORNEY GENERAL McBRIDE: You will see, if

you will consult your list that the released date is in complete agreement with the date you gave us.

BY ATTORNEY GENERAL McBRIDE:

Q Now Arthur Damore was opposed by you for release at the time of argument?

A That is correct.

Q On the ground that he did not plead guilty?

A That is correct. That was one of the strongest criminal cases against anybody, and he still persisted in standing trial and pleading innocent. We not only had recordings, but a movie picture, of him being paid off.

Q I am not suggesting that you felt that the commutations were unjustified. I just want to get on the records what your recommendation was. Now DiTullio you did not oppose?

A The reason I did not oppose DiTullio was his wife was very ill at the time.

Q And he was released nine months earlier than either Martin or Flatley?

A Yes.

Q And he had pleaded guilty?

A Yes.

Q Mike Dominick you were opposed at the time to his release but were not opposed to some ultimate commutation?

A Mike has a long previous criminal record.

Q Yes. Now he was refused?

A That is correct.

Q He was not granted any clemency at all by the Board?

A That is correct.

Q Now Flatley. Leo Kaminski in that one you argued in partial opposition and then stated that you did not oppose and decided ultimately to leave it up to the Board?

A If that is what you have on this record. I do not have any personal recollection.

Q You do not?

A And I did not pay too much attention to that one yesterday and I have not seen this one before.

Q All right. Now he was released in eleven months?

A That is correct.

Q John Koehler you did not oppose?

A That is correct.

Q And he also was released in nine months earlier time than the others?

A That is correct.

Q LaJohn you made a favorable recommendation on? There was some question of severe illness?

A He was in very poor health or I was so informed by his physician.

Q And he also was released earlier than others, in nine months?

A That is correct.

Q John Martin. We have this one, James Merlin; you did not oppose his release, did you?

A No, he was the one who was in very poor health.

Q And he was released earlier than the others, in nine months.

A That is correct.

Q Michalski we covered and you recommended his, and he was released sooner than the others, in seven months, five days?

A That is correct.

Q Now Joseph Rotunda, you did not oppose his release?

A I possibly made a mistake when I said Edward DiTullio's wife was ill. It was Rotunda's. I do not remember about the case.

Q You do not?

A No.

Q So you want the statement you made applicable to Joseph Rotunda rather than Edward DiTullio?

A That is correct.

Q Now, did you oppose Joseph Rotunda for the reason that you have stated?

A Just a minute till I get my sheet. That is right, and in addition he pleaded guilty.

Q And he was released in nine months?

A Yes.

Q Yes, now James Salamone, we covered. Now Stanley Schwartz you opposed at the time of his application. Mr. Schwartz, you remember, was the man who went up to the appellate court and at the time he appealed he had only been in a short period of time, is that right?

A I do not recall that appeal. I believe I was out of office and Mr. Johnson took over.

Q I see. Well Mr. Schwartz was required to serve one full year, was he not?

A I believe that is correct, yes.

Q Now, there were in addition just to fill out the picture—there were additional men who received sentences of eleven and one-half to twenty-three months?

A I believe there were several. And they were men named John McCarthy, Joseph Luciano and Dominick Grignol and our records disclose they served slightly less than seven months, those cases being up for the discretion of the sentencing judge, those men were released?

CHAIRMAN TOMPKINS: Were these cases before the Pardons Board, General?

ATTORNEY GENERAL McBRIDE: I just want to fill out the picture. It is not really a big point. There were three in addition who did not get the kind of sentences that required Board action, and we just want to show that in passing, and I am not making a point of it, that these men got sentences which left them in the discretion of the judge and they were turned loose in less than seven months in each case, so you balance the kind of leniency shown by the courts to these men as shown by the Board of Pardons, as I said, just to fill out the picture.

CHAIRMAN TOMPKINS: There is one seven months and five days. There are numerous nine-months' cases in here.

ATTORNEY GENERAL McBRIDE: That was the Board.

BY ATTORNEY GENERAL McBRIDE:

Q Now it is true, is it, McCarthy, Luciano and Grignol and another man named Provenzini—

MR. KOHN: Are these men before the Pardons Board?

ATTORNEY GENERAL McBRIDE: No. These men having received sentences which left the date of release on parole subject to the supervision.

BY ATTORNEY GENERAL McBRIDE:

Q They were released by the court, weren't they?

A That is correct.

CHAIRMAN TOMPKINS: Just a minute, was that information before the Pardons Board?

ATTORNEY GENERAL McBRIDE: It would normally be before the Board of Pardons.

CHAIRMAN TOMPKINS: Well, was it before the Pardons Board? Did that have any bearing upon how the Pardons Board acted?

ATTORNEY GENERAL McBRIDE: It may not. If it was before them it would be because constantly the Board of Pardons has normally a record. One of the requisites is that you name your accomplice and state how long they got and state whether they are still in jail, and so forth. Now that is one of the things they would consider, I do not state to the Board that the Pardons Board did consider this particular question, but I do state, just to clear the record up as to how many defendants there were and what happened to the other cases, what the sentences were, just this one statement of fact.

CHAIRMAN TOMPKINS: General, I have no particular objection to it but if this information was not before the Board and it did not bear upon their consideration of the case at all, I think it is completely foreign to the situation.

ATTORNEY GENERAL McBRIDE: It may be highly significant that the court acted with greater leniency to these men whom the court had itself sentenced than that by the Pardons Board. If that information was used by the Pardons Board in their deliberations. If not, I would say it is foreign to the inquiry. Well, it might be foreign to the inquiry but it is a comparison of actions of one tribunal and another tribunal. That is all. I wanted to get it on the record. Thank you very much, Mr. McLaughlin.

MR. KOHN: I would like to ask a few questions.

REDIRECT EXAMINATION

BY MR. KOHN:

Q There is a great deal of testimony given by you about your attitude in these cases in attempting to see why the Board did or did not act. I call your specific attention to the Sol Czulewicz case. In that one you objected, did you not?

A That is correct.

Q And the Board did not pay any attention to your objection?

MR. KOHN: I object to that. You say they did not pay any attention to it. Whether the Board agrees or disagrees does not mean they did not pay any attention to it. They had other recommendations too.

Q They did not follow your reasoning?

A They did not entirely agree. He was not compelled to stay the full time.

Q They reduced it from one year, three months to ten months, twenty days?

A I believe that is correct.

ATTORNEY GENERAL McBRIDE: Do you have ten months, twenty days? He was actually—

MR. KOHN: I said what they actually commuted it to That is what the record says.

ATTORNEY GENERAL McBRIDE: It is always done with the understanding that the Parole Board takes a month or so to decide.

MR. KOHN: It did not take it in the Flatley case.

ATTORNEY GENERAL McBRIDE: If the purpose is to get a man out for Christmas, they do not let Christmas go by.

BY MR. KOHN:

Q You also objected to Arthur Damore, is that correct?

A That is correct.

Q And he was given exactly the same commutation as the person you did not object to.

A That is correct.

Q You also objected to the care of Dominick Audiutori who came up after the Salamone case?

A That is right. I think in the Dominick Adiutori case that I suggested to the Board that he should get the same thing as James Salamone got.

Q Which was previously heard and granted?

A That is correct. I saw no reason for him serving more than his partner.

Q Is that the reason for your statement?

A That is the reason for it; yes.

Q You were asked about three other defendants whose names I do not recall. Isn't it a fact that they were let out by Erie County after the Pardons Board had commuted these sentences?

A I do not recall. Some were and some were not. I do not recall.

Q Some of them were after but they did not get sentences that would put them under the Pardons Board but were let out after.

ATTORNEY GENERAL McBRIDE: That cannot be correct. Look at this, they were sentenced on the sixth of January.

MR. KOHN: We do not have the records, Mr. Chairman, to produce the dates on which these men were sentenced and to show the precise time, whether it was before or after.

A There were other men who were sentenced later on, and for one reason or other the sentence was deferred. For instance, Art Damore and his partner had a liquor license together, and we tried to arrange it so he could serve his term and get back while his partner went to jail.

Q Could we then have the records?

A I think our County Court records would show that.

ATTORNEY GENERAL McBRIDE: I do not think it is material. If they were released in seven months, it would appear they were released before the Pardons Board's action, which would not be material.

SENATOR SCOTT: The witness has stated that some of them were after.

THE WITNESS: Some of them before and some after, our record indicates.

MR. KOHN: Will the Board accept a letter?

ATTORNEY GENERAL McBRIDE: I do not see how it is material. If you are injecting something into the record, I will have to cross-examine all over again. You are saying it was after, and the witness does not remember. If it is important to ask about it, it is important to clear it up.

SENATOR FLEMING: I think a letter would be perfectly acceptable.

CHAIRMAN TOMPKINS: We will accept a letter as to dates of sentences and releases.

REPRESENTATIVE LOPRESTI: Mr. Chairman, I think it is very material to the issues before us because the only

thing I see now that might be before the Pardons Board is that they granted commutations, and if that is going to hold true against the Pardons Board, then it will hold true against the court.

BY SENATOR YOSKO:

Q Mr. McLaughlin, do you know of any political or any other improper influence aside from what was testified here today that compelled the Pardons Board to grant the commutations that the record shows were granted?

A I have no personal knowledge of any such thing. As far as that is concerned, a lot of these men's friends came to me and asked me to give them a break, but that is a normal thing for any district attorney to go through, but I could not say there was political pressure. I would say it was personal friendship so far as these cases were concerned.

ATTORNEY GENERAL McBRIDE: And the question was as to pressure on the Board.

BY ATTORNEY GENERAL McBRIDE:

Q Do you know of any?
A Not so far as these cases we talked about.

BY REPRESENTATIVE LOPRESTI:

Q Well, in any other cases do you know of any?
A Yes.
Q Do you know of any other cases?
A Where there was ever suspicion of political pressure. There is nothing that would be admissible in a court of law. It is based upon a peculiar thing that happened at one time when we were down here and in a conversation with the attorney representing a man making application for a commutation of his sentence. The strange part of it was that he was making application for commutation of his sentence even before he started serving that sentence, and the conversation of the attorney—

BY ATTORNEY GENERAL McBRIDE:

Q Is this in the presence of the Board?
A No, in conversation I had with his attorney outside in the hall before we went in before the Board. I asked him what the idea was, that I had never heard of such a thing, a man making application before he had his sentence served; and he said, "Well, I do not know exactly what is going on here but there is something funny and I am not so sure that I like it." Shortly thereafter somebody came up and introduced him and called him aside and introduced him to one of the members of the Board. I am not sure which one it was but I think it was Mr. Finnegan. That was the only thing which remains in my mind, where the attorney for the applicant was introduced to a member of the Board prior to hearing. That is the only thing at any time that ever lead me to believe that political—

BY CHAIRMAN TOMPKINS:

Q Is this an Erie County case?
A It is an Erie County case.

BY ATTORNEY GENERAL McBRIDE:

Q What was the name of that lawyer?
A John Wolford.
Q What was the name of the case?
A Ben Kaufman.
Q And he applied before the Board before he started to serve his sentence?
A That is correct.
Q What did the Board do about it?
A They refused him. He later made application and was released in January.

BY MR. KOHN:

Q Do you know a man by the name of Morris J. Coughlin, an attorney?
A Morris Coughlin?
Q Yes.
A Yes.
Q What job did he hold?
A Assistant City Solicitor.
Q Is he also Democratic campaign manager?
A Yes.
Q He represented one of the men?
A He represented Ben Kaufman when he made the . . .

BY CHAIRMAN TOMPKINS:

Q Did Ben Kaufman finally go to jail?
A Yes.
Q Was there later action by the Pardons Board on his case?
A Yes, he was later commuted.
Q And did Mr. Wolford represent him at the Pardons Board hearing?
A The first time, before he started serving time, he was represented by Morris Coughlin. The second time is when he appealed.

BY ATTORNEY GENERAL McBRIDE:

Q What position did you take on that second application?
A I am quite sure I opposed it. As a matter of fact, I do not know whether I was still district attorney. I think Mr. Johnson was in office at the time.
Q Do you know what position Mr. Johnson took?
A I assume that he opposed it too.
Q You do not know?
A Only that he told me.

BY MR. KOHN:

Q Do you know what sentence he received?
A One and a half to three.
Q Do you know how much it was commuted to?
A Mr. Johnson can tell you.

BY ATTORNEY GENERAL McBRIDE:

Q Mr. McLaughlin, in your own long period of service in the district attorney's office, any number of people have been introduced to you that did not influence your conduct?
A That is correct.
Q Many were members of the Legislature and judiciary, and district attorneys are subject to being introduced to people in corridors, are they not?
A That is correct.
Q That does not mean that that influenced their conduct?

A Certainly not, even though people think they had.

Q And sometimes people try to give the impression that they are influencing people just by talking to them, do they not?

A Yes sir, that is correct.

BY CHAIRMAN TOMPKINS:

Q Was Mr. Wolford, Assistant City Solicitor at the time he represented Mr. Kaufman?

A Morris Coughlin was Assistant City Solicitor not Mr. Wolford.

Q Was Coughlin City Solicitor at the time he represented Mr. Kaufman before the Pardons Board?

A He was.

CHAIRMAN TOMPKINS: We will adjourn for one half hour for lunch.

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing before the Joint Legislative Committee to conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same.

AGNES M. O'NEILL

Reported by:
Agnes M. O'Neill
412 Broad Street
Ashland, Penna.

BEFORE JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 2:00 p.m., Wednesday, March 6, 1957

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.

Members of Committee

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania.
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel).

AFTERNOON SESSION
3-6-57

FRANK R. HEAN, recalled on FURTHER REDIRECT EXAMINATION

MR. KOHN: Mr. Hean, Mr. Tompkins would like to ask you a question. Would you please step forward.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, on this Ray Czulewicz case—I guess that is the way you pronounce it—there is this report of the Board of Pardons that shows an erasure on there. Do you know what the original insertion was in there?

A If I may refer to my book.

Q Go right ahead.

A Ray Czulewicz; yes, sir, I have it before me. My original note here was four years and eleven months and then it was reconsidered by the Board and changed to ten months, five days.

Q The original was eleven months even?

A Yes.

Q And it was altered then to—

A Ten months and five days, yes, sir.

Q The warrant of the Governor indicates typed in here ten months, five days and the five is crossed out and a twenty in ink is inserted above it. Do you know who made that insertion?

A No, I do not. My record shows changed to ten months, five days. I do not know who put in the twenty.

ATTORNEY GENERAL McBRIDE: Are you finished, Mr. Chairman?

CHAIRMAN TOMPKINS: Yes, that is all I wanted to know.

FURTHER RECROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q He actually served eleven months and nine days, didn't he?

A At least he did according to the—yes, it was expired on or about the 15th day of December, 1955.

Q And the recommendation was that he be released on December 15,—

A December 15,1955.

Q And the part of this abstract prepared by Mr. Cohen indicates he was released on December 15th?

A That could well be; yes, sir.

Q I will show it to you.

A That is right, the date of release.

CHAIRMAN TOMPKINS: That is all, Mr. Hean.

HAROLD J. SULLIVAN, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY CHAIRMAN TOMPKINS:

Q What is your full name?

A Harold J. Sullivan.

CHAIRMAN TOMPKINS: Mr. Kohn.

BY MR. KOHN:

Q What position do you presently occupy?

A Assistant Secretary of the Senate.

Q About August 7 of 1955, what position did you hold?

A I was executive editor of the—

Q Will you speak a little louder, please.

A Executive editor of the Erie Daily Times, Erie. Pennsylvania.

Q On that particular date, do you recall an article in the Erie Sunday Times that was written by you and is found in the Flatley files?

A Yes, I wrote this article. It carried my by-line.

Q Now, subsequent to that article—

ATTORNEY GENERAL McBRIDE: May I see that, please?

MR. KOHN: Oh, surely, Mr. McBride. Should I go ahead, Mr. McBride?

ATTORNEY GENERAL McBRIDE: Oh, certainly; go right ahead.

BY MR. KOHN:

Q Subsequent to that article did you receive a call from the Mayor of Erie, I think his name is Arthur Gardner?

A I did.

Q And can you recall approximately when that was?

ATTORNEY GENERAL McBRIDE: May it please the Board. I think this is hearsay upon any definition, a conversation that took place between two people not before the Board of Pardons, not in which any member of the Board of Pardons was present. Now, such conversation—I know, we are not in a courtroom, but hearsay like that which takes place between two people, and I don't know what its purpose, nevertheless that sort of thing never has been considered proper evidence anywhere.

MR. KOHN: It isn't anymore hearsay than that article that was in the file and was considered by the Board.

ATTORNEY GENERAL McBRIDE: Well, whatever was considered by the Board and whatever they did with it, the Board will certainly answer, but a conversation between this gentleman and someone else that took place perhaps in Erie at which no member of the Board was present, surely is not evidence before a legislative, judicial or any other tribunal.

CHAIRMAN TOMPKINS: We have no knowledge of what the man is going to testify to and if it has relation to the subject of our investigation, we will permit him to proceed.

BY MR. KOHN:

Q I think the question was whether or not subsequent to the writing of that article you received a telephone call from the Mayor of Erie, Arthur Gardner?

A I did.

Q Can you place approximately when that call came to you?

A Well, as near as I can recall, it was the morning after an election in 1955.

Q After the Fall election then, was it not?

A Yes.

Q And what did he call you for?

A Well, he said that Governor Leader had called him that morning to congratulate him on the results of the election in Erie County. He said—I was still in bed at the time he called me and he said. "He also asked me what the public reaction would be in Erie if a recommendation by the Pardons Board in behalf of former Mayor Flatley were granted."

Q Didn't you tell me that he said, "What the reaction would be if Flatley were let out of jail?"

A Words to that effect, yes.

Q And what else did he say the Governor wanted to know?

A He wanted to know whether there would be a public outcry or opposition were the ex-mayor released.

Q And did he ask you whether or not your newspaper would write any articles opposing—I am talking about Gardner?

A No, he did not. He did not put it exactly that way. He said he had answered the Governor before calling me and he did say that he had told the Governor he did not think there would be any bad reactions. That was the reason he called me.

Q And do you know whether this was before the commutation or after the commutation?

A Before.

Q Do you know whether it was before it was reduced from one year to eleven months, five days or after?

A I did not follow it. That is close.

Q It could have been in between there?

A Well, it could have; yes sir.

MR. KOHN: You may cross-examine.

BY CHAIRMAN TOMPKINS:

Q You say you would fix the time after an election in 1955. Do you know how long after that election in 1955 that you received this call, Mr. Sullivan?

A Yes, the morning after.

Q The morning after?

A I gathered from Mr. Gardner's question that the Governor had called primarily to congratulate him, to extend his congratulations on the results and during the course of that conversation he asked that question.

Q That's how you fix that date, I guess?

A Yes.

CHAIRMAN TOMPKINS: That is all.

CROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Just a moment, Mr. Sullivan. As early as August 7, you yourself had written this statement to the effect that the people of Erie would not believe that if Mr. Flatley would come out of the prison he would become a racketeer or kill people?

A That is correct.

Q Now, when you say that this conversation which took place after election day, 1955, was before the commutation, you mean before Mr. Flatley's release, do you not?

A Well, I am not familiar with the dates.

Q That's what I thought.

A I do not know it was before Mr. Flatley was released.

Q Before he was released?

A I know it was before Christmas.

Q You know that the conversation was before Christmas?

A I know it was the morning after an election.

Q The conversation was the morning after an election and the release was before Christmas. Whether that was before or after the Board made its recommendations to the Governor, you do not know?

A I could not answer that question.

Q Whether it was before the Governor made his decision as to commutation, you do not know, do you?

A Well, I gathered from the Mayor's remarks that the commutation had not been issued. He was inquiring of the Mayor of Erie what public reaction would be. The Mayor expressed himself and being the editor of a newspaper, he called me.

Q And he expressed the view that the people of Erie would not be horrified if the commutation was granted?

A Well, he asked me that question. I am not sure exactly what I said in reply. I think I agreed with him.

Q You agreed with the Mayor that it would not be ill-received by the people of Erie?

A As it turned out I was correct.

Q Yes.

ATTORNEY GENERAL McBRIDE: I think that is all. Thank you, Mr. Sullivan.

HERBERT J. JOHNSON, JR., having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY CHAIRMAN TOMPKINS:

Q Your full name?

A Herbert J. Johnson, Jr.

CHAIRMAN TOMPKINS: Herbert J. Johnson, Jr. Mr. Kohn.

BY MR. KOHN:

Q Are you the District Attorney of Erie County at the present time?

A I am.

BY CHAIRMAN TOMPKINS:

Q Is that J-o-h-n-s-o-n?

A That's right.

BY MR. KOHN:

Q And how long have you been District Attorney?

A Since January, 1956.

Q Previous to that time had you betn connected in any way with the District Attorney's office?

A Yes, I was Assistant District Attorney for a period of eight years.

Q And were you in office or engaged on the District Attorney's staff during the trial of the Flatley case and the others who were involved?

A I was.

Q Did you also help conduct investigations into that set of cases?

A Yes, I did.

Q Are you familiar with the Schwartz case?

A I am.

Q Did you appear before the Board of Pardons opposing that case?

A I did. That case was in the February, 1956 Term after I took office, and I appeared and strenuously opposed commutation in that case.

Q Why?

A Because the evidence indicated throughout that Mr. Schwartz was the ring leader of this entire bribery operation in the City of Erie, and because, as I pointed out to the Board at that time, the sworn statements contained in his application were false and were false on the basis of his own statement as contained in the record of the trial and was false by reason of Flatley's statement which had been before the Board in which Mr. Flatley stated that Schwartz had talked him into taking this money. In his application before the Board, he stated that he had never given any money to the Mayor, whereas it was pointed out in his statement contained in the record, and which I referred theBoard to, he admitted making various payments to the Mayor.

Q Was Schwartz the brains and the ringleader behind all this?

A He was.

Q And what was his political affiliation?

A He was a Democratic State Committeeman. He was the City Campaign Manager for Thomas Flatley when he ran for office. He was Democratic City Manager at other times for the Democratic Party.

Q I notice that in the factual statements given by him he said that he used some of this money in the Mayor's campaign. Was the Mayor running at this particular time that he said he was collecting these funds?

A He was not. He pointed out in his statement to the Board that this meeting he referred to took place in 1954 when he began collecting the money.

Q When did the Mayor get into association with him?

A Actually they started making their collections, according to Mayor Flatley's statement and to Schwartz's statement, in 1953.

Q And when did the Mayor get into taking money?

A It appears it was in 1953.

Q And I think there is something in the record that the Mayor got something a little over $6,000 as his share, is that correct?

A Somewhere between $6,000 and $8,000; never ascertained exactly how much it was.

Q How much did Schwartz get?

A Approximately the same amount.

Q Now, will you state whether or not the judge opposed Schwartz's commutation?

A He did.

Q And Schwartz had been given a year and a half to three years?

A That is correct.

Q And commuted to one year?

A He was commuted to one year flat.

Q How many cases came before this Board of Pardons from Erie County during the past year previous to this?

A During the years 1955 and 1956, from Erie County, Pennsylvania, there were fifty-four; there were a total of fifty-nine cases before the Board, five of which were continued so that actually there were fifty-four petitioners. Those continued ones were then relisted at another hearing so actually there were fifty-four petitioners from Erie County before the Pardons Board during those two years, 1955 and 1956.

Q How many of those were granted?

A Of that total, nineteen were granted.

Q And how many of those were involved in the bribery case?

A There were seventeen. There were two others be-

sides the bribery cases and one of those was the Kaufman case which has been mentioned.

Q And what was the other one?

A The other one was a man by the name of Stewart at the June 1955 Session to which neither the district attorney nor the judge had any objection.

Q Now taking the difference between the ninteen and fifty-four, did the district attorney and judges make various recommendations on the other cases?

A Yes, they did. For example, in this June Session of 1955, there were nineteen cases before the Pardons Board. Of those nineteen, eleven of them were defendants in the bribery cases. Mr. McLaughlin has testified as to what his recommendations were in those. Of those nineteen cases, there were eleven granted. There were eleven bribery cases; there were eleven granted altogether. The Stewart case which I mentioned was one of them. The other ten were bribery defendants that were granted. There was only one bribery defendant refused and that was John Martin the man the district attorney argued for and that the judge had no opposition to.

Q Now, all these cases, regardless of how the district attorney or judge expressed their views, were refused. is that correct?

A That's right. And then, in addition to those, there were two other cases at that same time, the Charles Krysiak and William Niemeyer who were two credit union officials who had committed the technical violation of making loans to themselves while they were officers in the credit union. It was those two which Mr. McLaughlin, as District Attorney, urged their release and that was refused by the Pardons Board at the same session.

Q Well now, Mr. Hean testified that at all times members of the Pardons Board were available to attorneys who were interested in cases. Did you at the time make a request of the Pardons Board offices to see the recommendations of the Pardons Board in any cases?

A On April the 26th, 1956, I was before the Pardons Board on some other cases. After I completed handling those cases I came down to the Pardons Board office At that time, Mr. Hean was not there. He was with the Board up in Session in the Supreme Courtroom. I identified myself to the girl who appeared to be in charge of the office. I, at that time, did not know who she was, but I believe now since that it was Mrs. Cowden, but I am not positive about that. I identified myself as District Attorney of Erie County, Pennsylvania, and requested to see the Thomas W. Flatley and Stanley Schwartz files. I was advised at that time that I could see the copy of the application. I advised the lady at the time that I as district attorney had a copy of the application, that that was furnished to me; that what I was interested in was the reasons the Board gave for recommending commutation in those two cases. I was advised at that time that I would have to get permission of the Board to see those files.

Q From the Pardons Board?

A From the Pardons Board, yes, sir.

Q What effect, if any, has the actions of the Board in the Schwartz and other matters had as far as the law enforcement officers are concerned?

A I feel that in our community it has had a very serious effect, The police feel that there is a matter of moral as far as the police department is concerned. They feel that their work is hampered by this type of action. The community—we had rampant in the community, prior to the election, rumors to the effect that it was a campaign promise that these men would be released. That came to pass because they were released. Now, whether or not—I have no definite evidence that it was because of that promise and I don't mean to infer that I do have, but that rumor was there and it did come to pass.

I think it has had a very serious effect upon the youth of our community. I became particularly interested in youth activities in our community and the youth were commenting on the fact that these men, because of their position, would never serve their full time. That came to pass and the youth has been proven to be right in that respect.

Q In some of these cases, Mr. Johnson, the police did sign petitions for the release of certain particular individuals?

A They did, sir, for certain individuals; yes. I think the one that did the most harm was the release of Stanley Schwartz. It was recognized by everyone, even those who were sympathetic with the Mayor, that Stanley Schwartz was the ringleader and the one that got the Mayor into this situation. I think even the Mayor in his own application to the Pardons Board said the same thing, that he resisted it for some year and a half before he got into this.

Q And he says, according to his application, that he used this money to further the interests of the Democratic Party in Erie County. Is there anything in his testimony which would bear out that statement?

A No there isn't. Now, in his testimony at the trial, yes, he did attempt to show that. He brought in a bag full of tickets for smokers and church affairs and everything of that nature in which he offered to show what he bought with this money. At the time of the original arrest, I took a statement from him as the investigating officer. That statement consisted of eleven pages in which the full situation was gone into. At no time throughout that statement did he say that this was any part of a political operation. At no time did he say that he used the money for political purposes even though at one point I asked him if there was anything more he wished to add to what he had already told me. He still did not bring that out. Also, in addition to that, there was evidence disclosed at the trial that during the same time that this was going on, Stanley Schwartz was collecting for $100 Democratic dinners. He was sending out members of the vice squad to collect for that purpose, but no charge was based on that. The only charges were based on this money that was divided with the Mayor.

Q Mr. McLaughlin said that at the time these charges were brought, many of them were not tried. They were nol-prossed. Is that correct?

A That is right. There were—the operation went on from April until October. During that period of time there were monthly payments made. Now, in the view of the district attorney's office each one of those was a separate violation each month a payment was made.

Consequently, indictments were drawn for those various months.

Now, in the case of Stanley Schwartz, he stood trial and we tried him for the payment in one month. He was convicted on that and took an appeal to the Superior Court of Pennsylvania. While that appeal was pending at the next term of court, he was tried a second time for one of the other charges for one of the other months. He was likewise convicted at that time.

Q You, I think, heard the statement of the parole officer, who investigated this Schwartz matter for the Pardons Board, stating that he was a politician who used his power to collect money for his own use?

A That is correct.

Q Now, what is the attitude generally of the police department and enforcement officials in regard to a man who collects money, public officials who violate a trust, as compared to these other applications that were before the Board that had no significance as far as public trust is concerned?

A Well, this one was particularly bad as far as the police were concerned because this man Schwartz was actually running the police department prior to the time this occurred.

Q The Mayor so said?

A The Mayor so said and Mr. Martin, the Inspector of Police, so testified. Mr. Martin told of one occasion where he had given—before the time that he was brought into this operation of making collections for Schwartz and Flatley, it was being done by a Hank Soscia, the Democratic Treasurer of Erie County. At that time, Mr. Martin had caused an arrest of one of the gamblers in town to be made. He had given the instructions to the police to make the arrest. They had made the arrest, and that night Thomas Flatley called him at his home and told him he wanted to talk to him and he would pick him up. He came to his home, picked him up, and took him to Stanley Schwartzs' home where Stanley Schwartz told him to lay off that type of thing; that he was—well, to read it from the testimony. This is the testimony in the case of Stanley Schwartz where Mr. Martin testifies:

"Q And where did that happen? How did that come about?

"A I was called by Mayor Flatley to meet him at night and go to Mr. Schwartz's house.

"Q And did you go to Mr. Schwartz's house?

"I did, yes.

Q "And what was the conversation after you got there?

A "I got bawled out because somebody had been arrested that day.

Q "Will you explain that more in detail to the jury?

"A We sent a sergeant and two men in plainclothes out this particular day and they happened to arrest somebody that was part of an outfit that had been paying, and I was the one who was at fault for sending them out.

Q "Who did the talking while you were over at Schwartz's house?

"A That was quite some time ago. We all talked, as far as that went.

"By the Court:

"Q Who do you mean 'we all'?

"A The Mayor and Mr. Schwartz and myself.

"By Mr. McLaughlin:

"Q Can you tell us the gist of that conversation? You don't need the exact conversation."

SENATOR YOSKO: Mr. Chairman, not that we are not interested in the facts, but whatever facts you are reading and whatever illegal acts were committed—These people were tried and they were sentenced and they went to jail. What we are here for is not to rehash the facts in the case. We are here to determine if there was any political influence exerted on the Board for the release of these people who were tried for the very facts that you are giving us and were sentenced to jail. I am only suggesting that we stick to that phase of it. We do not want to hear all of the facts in the case. That's a matter of—that's history.

MR. KOHN: This morning you said you wanted all the facts, Mr. Yosko.

SENATOR YOSKO: That's not—I want all the facts, but—

ATTORNEY GENERAL McBRIDE: The question of his guilt or innocence is not before this body.

CHAIRMAN TOMPKINS: What is the purpose of this line of testimony, Mr. Kohn?

MR. KOHN: I want to show that—Mr. McBride said this morning in regard to consideration, giving arbitrary consideration, there is nothing in the record that would recommend any consideration except certain letters which have not been checked, and I am coming to that. I don't want to rehash all this thing. I want to show the effect it had on the community.

CHAIRMAN TOMPKINS: Are you trying to show that there is a variance between the testimony that Mr. Schwartz gave at the trial of the case and the affidavit he swore to on his own application for commutation?

MR KOHN: I am trying to show that the Pardons Board had before it all kinds of various information; none of which has anything favorable to Mr. Schwartz, including the parole officer's report, and that their action was arbitrary—

CHAIRMAN TOMPKINS: Well, I don't think—

MR. KOHN: In comparison with Martin whom everybody went for was exactly the opposite.

CHAIRMAN TOMPKINS: I don't think we want to retry the case. But, if it has any relation to the inquiry why, then, of course, we will admit it.

THE WITNESS: The point I am making, Mr. Chairman, is that those facts were argued to the Board, these discrepancies, in his application, under oath, at the time he appeared before the Board and the facts as were present to the Board in the form of the record in the case.

BY CHAIRMAN TOMPKINS:

Q Those matters were all called to the attention of the Board at the time that you argued the case?

A They were.

BY MR. KOHN:

Q Mr. Johnson, I ask you this, whether or not, at the time you argued the case, you notified the Pardons Board that Schwartz was interested in feathering his own nest rather than using this money for political purposes?

A Yes, I did.

Q The judge also opposed this commutation, did he not?

A Yes, I understand he did.

ATTORNEY GENERAL McBRIDE: That is not strictly accurate, Mr. Kohn.

MR. KOHN: Will you give us what the statement is?

ATTORNEY GENERAL McBRIDE: I will tell you what he said: "he should serve at least as long as Mayor Flatley."

THE WITNESS: I had seen the letter that was written by the judge, Mr. Kohn, and that is called from it. I think it was a sarcastic remark to the effect that he should serve at least as long as Mr. Flatley who had already been released by the Board.

CHAIRMAN TOMPKINS: Where is that full letter? Has that been presented to this committee yet?

MR. KOHN: I don't think it has been offered in evidence and I would like to do so.

CHAIRMAN TOMPKINS: Was this letter read by Mr. Hean yesterday?

MR. KOHN: I don't think so, sir. I do not recall it ever being given in evidence and I would like to read it at this time.

REPRESENTATIVE LOPRESTI: It was read.

CHAIRMAN TOMPKINS: We read letters on the Martin and Flatley cases, but I do not recall this letter here.

MR. KOHN: May I read this at this time?

CHAIRMAN TOMPKINS: Well, for our information you can read the letter.

MR. KOHN: January 6, 1956; Judges' Chambers; Sixth Judicial District of Pennsylvania, Erie, Pennsylvania; Elmer L. Evans, President Judge. "Re: Stanley Schwartz.

"Board of Pardons

"Harrisburg, Pennsylvania

"Gentlemen:

"I have before me the copy of application for clemency by Stanley M. Schwartz."—You will have to bear the date in mind of this letter.

CHAIRMAN TOMPKINS: What is the date of it?

MR. KOHN: January 6, 1956.

"He was one of the ringleaders in the bribery operation and received one-third of the proceeds with the Mayor and the Police Inspector Martin, At the time of trial he urged the argument that he collected this money for political purposes only, but even though this did not change the fact that he was protecting law violators from arrest through bribery, his testimony as to the disposition of funds did not bear scrutiny. The lists of payments he claimed to have made were prior by several months in most instances to the dates when these moneys were collected. Furthermore, he never reported political contributions and expenditures as required by law. Inspector Martin and the Chief of Police gave testimony to the effect that he controlled the appointments and operation of the police and that the police chief had nothing to do with it because of the setup.

"He states that one of his accomplices was Henry Socia. However, Henry Socia was not convicted of collecting bribes because neither Mayor Flatley nor Schwartz would give testimony to implicate him. The only evidence concerning Socia's activities was Martin's statement that he was called in to collect because Flatley and Schwartz told him Socia had had a fist fight with the police, and they did not consider him a safe person to continue collections. Martin could not give direct testimony other than what these men told him, and it being hearsay, Socia was not tried for bribery. When he was apprehended, he had on his person many number slips and pled guilty to gambling only.

"Generally we would say that being one of the main offenders he should serve at least as long as Mayor Flatley."

BY MR. KOHN:

Q Flatley had been let out, had he not?

A He had.

CHAIRMAN TOMPKINS: Let's have this letter numbered so that it can be made a part of the record. Will you number that?

> Letter from Honorable Elmer L. Evans to Board of Pardons under date of January 6, 1956, produced, marked for identification and received in evidence as Committee Exhibit No. 11. NPK 3-6-57.

BY MR. KOHN:

Q That was not a directive to the Board to let him out, was it, considering his whole record?

A I would not so interpret it. With a review, the judge goes into—

BY CHAIRMAN TOMPKINS:

Q What judge was that?

A Judge Evans.

BY MR. KOHN:

Q Judge Elmer Evans. What effect did it have on the law enforcement members of your community where a person acted, a corporal of the police department, and made a shambles out of it and collected from gamblers would be released at the same time as Mayor Flatley?

A It had a very bad effect, especially when you consider alongside of it, and you must consider it, I think, the result of the Schwartz with that of Jack Martin who, after his arrest, had cooperated completely with the district attorney's office; had given a full statement after fifteen minutes of questioning, as I think has been mentioned before. He testified at the preliminary hearings. He testified at the Grand Jury, and testified at both trials of Schwartz. Now, they could not help but draw the comparison that Schwartz served roughly sixty-six and two-thirds per cent of his sentence by the court; whereas Martin, after his cooperation with the authorities, served approximately ninety-five per cent of his sentence, and Flatley served sixty-three per cent of his sentence.

Q And did Schwartz pick up his political activities after he got out?

A That I cannot truthfully say.

CHAIRMAN TOMPKINS: We think that is quite immaterial .

MR. KOHN: I ask that that be striken out.

I have nothing further for Mr. Johnson on this phase. I would like to continue on another phase, but if Mr.

McBride or anybody else has any questions on this, I ask that it be done now.

BY REPRESENTATIVE BELL:

Q You mentioned that Mr. Schwartz used the vice squad to sell tickets to $100 dinners. Now, will you tell us what these $100 dinners were?

A It was a dinner, a Democratic dinner that was being sponsored in the summer. I believe it was August or September of 1954. I believe it was here in Harrisburg. It was $100 a plate. The men on the vice squad were given assignments to go out to certain of these gamblers in the community and sell them a given number of tickets. One I happen to remember was James Salimony, a Westfield Jimmy who was assigned four tickets for that function.

Q And were these tickets to the $100 dinner sponsored by the Democrat State Committee?

A It is my understanding that it was; yes. Now, no criminal charge was made as a result of the sale of those tickets.

BY SENATOR YOSKO:

Q Is it a crime to sell tickets for a dinner to anybody?

A Senator, I don't thing it is a crime to sell the ticket, but there are circumstances under which it is certainly not good practice. I would not think of sending county detectives out to sell tickets.

Q I am not questioning the practice. Is it a crime to sell tickets?

A May I answer the question, Senator?

Q Well, just answer it yes or no.

A I would not send my county detectives out to sell tickets to any political dinner. I would feel that it was not the ethical thing to do, at least. I don't believe that you could find it a crime on the books, no. That is why I pointed out that no charge was brought here.

Q Did you ever sell tickets for a political dinner?

A Frankly, I have not.

Q You have not?

A No; I have bought many, but I have not sold them.

Q Well, you are not a very good organization Republican if you do not help to sell tickets for your Party's affairs.

SENATOR SCOTT: He buys them. That is the important thing.

BY SENATOR YOSKO:

Q You said there were some rumors in circulation in Erie County prior to some election. What election was that?

A That was the State election of 1954; November, 1954.

Q And the rumors were what?

A That if the Democrats were elected that these men would be released.

Q I see. They were the rumors in the area?

A In the area, yes.

Q Were they pretty widespread?

A Yes, I would say they were.

Q And what was the outcome of the election in Erie County that year?

A Governor Leader carried Erie County.

Q He did. Then are you telling me that the people knew these people were in jail and that they went to the polls to vote for Governor Leader so that he, in turn, could become Governor and release these defendants?

A I am not by any means inferring that, Senator.

Q Well, wouldn't that be it?

A I am saying those rumors were there. I am saying that after Governor Leader took office and a new Pardons Board was in effect, it came to pass.

Q Well, substantially, you are saying that what the people did was went to the polls to elect Governor Leader so that he could release these people.

A I would not be foolish enough to make that statement.

Q Well, I have a right to draw that inference. You were the one that made the statement.

A Senator, the inference is yours, not mine.

Q Shall we assume then that the people went to the polls to elect Governor Leader so he could release these people?

A If you want to make that assumption, you may; I would not.

Q Well, based on the—you said this rumor was widespread. I would assume that is the general public elected Leader so he would commute them, they wanted these people commuted.

A Well, that is your conclusion.

Q That is the only conclusion you can come to.

BY CHAIRMAN TOMPKINS:

Q Now, I just want to straighten out one point. You say the election of 1954. When were these men arrested and when were they tried?

A They were arrested in October of 1954; October the 16th of 1954. They went on trial at the November term of court.

Q They were not sentenced?

A They were not yet, for the most part, even sentenced when that campaign took place.

Q But that rumor was in existence prior to the time of their sentencing, January 6, 1955.

A It was the general thing that if the Democrats got in they would get out. It wasnt tied down to any specific course of conduct.

BY REPRESENTATIVE LOPRESTI:

Q In other words, was that part of the Republican rumor in that campaign?

A I heard—

Q Was that a reason not to elect the Governor?

A I cannot speak for the entire Republican Party. I know it was not a part of the official Republican campaign.

Q Wouldn't that be the more logical conclusion to draw from the facts that you have presented than the ones the Senator has suggested?

A Well, it all depends upon where the rumor circulates.

Q It at least circulated in your circles, however.

A It came to my ears; yes.

SENATOR YOSKO: He said it was general. That would include Democrats and Republicans.

REPRESENTATIVE LOPRESTI: That is all right.

CROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Johnson, I am fascinated by this rumor.

The rumor circulated prior to the election of 1954, is that right?

A That is right.

Q That when and if Governor Leader would be elected, he would let these men out, is that right?

A That is right.

Q Now, they were not in, were they?

A No, they were not.

Q They were not tried until 1955?

A No, they were tried in 1954.

Q When were they sentenced?

A Most of them were sentenced in January, 1955.

Q January, 1955?

A That is right.

Q When did they enter their pleas?

A Some of them entered pleas in November; some in December.

Q After election. Did any of them enter their plea before election?

A No, they did not.

Q Now, so that you tell us the rumor circulated before the people of Erie County even knew whether they would be found guilty or pleaded guilty, the Governor was going to let them out?

A That is right.

Q Even before the people knew they were going to go to jail?

A That was partly sparked by the fact that Mr. Dilworth was in Erie a week or two—I believe it was four or five days after these arrests were made, at which time he made a public announcement that the whole thing was just political anyway and that there was no basis for it.

Q Well, were the rumors political?

A What do you men by that, General?

Q Wasn't it as Mr. Lopresti said that that propaganda was used to the effect that if these men went to jail they were going to get leniency?

A You mean propaganda by the Republicans?

Q Yes.

A No, sir.

Q Well now, will you explain to me why a disinterested member of the public, that is, an impartial person, would say that these men are going to be let out even before he knows whether they will go to jail?

A Yes, I think I can explain that. The general feeling was that because of the importance of Stanley Schwartz and Mr. Flatley when this case first broke there was a general feeling among some of the public, particularly among the club group, that they would never even come to trial. That gradually moved back. As they came to trial, that they would not be convicted. Then, as they came in and entered pleas or were convicted, that they would not serve any time. That kept moving on back from that.

Q And that was after the election?

A Yes. The over-all picture there was the rumor that if the Democrats got in they would not serve any time.

Q All right. Now, that rumor turned out not to be true, did it not?

A It did, in part.

Q Well, they all served some time.

A Yes.

Q Now, the question of whether or not they would be brought to trial. You said there was a rumor that they would not be brought to trial, but that was in the control of the district attorney, was it not?

A That is right.

Q And the district attorney was a Republican?

A That is right.

Q So you say the rumor was that a Republican district attorney would not bring these Democrats to trial?

A Yes, sir, but he did.

Q Let me ask you this. You said you went to the Board's office. Mr. Hean was not there?

A No, he was not there.

Q No member of the Board of Pardons was there?

A No, sir.

Q You asked to see not merely the application, but the folder including any confidential information or any—

MR. KOHN: He did not say that.

BY ATTORNEY GENERAL McBRIDE:

Q What did you ask to see?

A I asked to see the reasons given by the Board for recommending commutation.

Q Didn't you know that those reasons had to be, under the Constitution, on file in the office of the Secretary of the Commonwealth?

A No, sir, I did not.

Q Didn't you ever read the Constitution?

A I have. I also have read the Rules of the Pardons Board in which they said that they are to be kept on file there.

Q Did you ask any member of the Board of Pardons to see the file?

A I did not.

Q Did you ask Mr. Hean?

A I did not.

Q That is your position. Your position now is that because some girl or lady in the office simply said that you could not see these records, that that in some way reflects upon the Board of Pardons itself?

A No. I am merely stating the fact that I was advised that I would have to get permission of the Board to see them.

Q Did you seek to get such permission?

A I did not. They were in session at the time.

Q Did you seek at any time thereafter when they were not in session to get permission?

A I did not.

Q You were never turned down by the Board of Pardons, were you?

A Not by the Board itself; no.

Q And not by Mr. Hean?

A No, sir.

Q Now, you say that the police feel that their work is hampered. Do the police feel that their work is hampered by the release of Inspector Martin and Patrolman Camilli, both of whom were in the police department?

A No, I do not feel that they do. In fact, I think I pointed that out, that they felt that Martin, a man who did cooperate, should have received more favorable consideration than he did.

Q Now, you also mentioned the question of public trust. Mr. Martin was in a position of high public trust, was he not, as the Inspector of a police department?

A He was. He was appointed to that position by Mayor Flatley.

Q Yes; so that Mayor Flatley and Mr. Martin both violated their public trust, did they not?

A They did. I think it is only fair to point this out, though, that Mr. Martin violated it after the Mayor called him into his office and told him to; directed him to go out. The Mayor was the nominal head of the police department. He was the one who told them to go out and make the collections. I do not feel that the fault on him would be nearly as great as it would on Mr. Flatley.

Q Let's assume that it would not.

A And yet he served ninety-five per cent of his sentence and Mr. Flatley sixty-three per cent of his.

Q Well, did he not get leniency from the court itself by getting only one year?

A He did.

Q And, therefore, the fact that he was compelled to stand ninety-five per cent of his sentence was on top of the leniency already granted him?

A That is right. If Mr. Flatley and Mr. Schwartz had testified, the third one of this ring perhaps would have been convicted, too.

Q And if Inspector Martin had testified, Mr. Socia would have been convicted, too.

A Mr. Martin could not have testified to that because he was not a part of the operation at the time. In fact, I think the mistake that Mr. Martin made was in his application pointing out that it was only because of his testimony that Mr. Flatley could be convicted.

Q Now, did you recommend anybody favorably to the Board at any time?

A Have I?

Q Yes

A Since I have been District Attorney?

Q Yes.

A Yes, I have.

Q Among this group?

A Not among this group.

Q Did you recommend against anybody in this group?

A I argued against Stanley Schwartz.

Q How about anyone else?

A Oh, wait, I beg your pardon. I did recommend or I did take this position on Anthony Tonti who came up in September of 1956. I said to the Board at that time that in view of what the Board had already done in these other cases that they should commute his because he was in the same position as the others.

Q Even though, as you say, the youths were perverted by the reasons of the Board of Pardons?

A I see no reason to make fish of one and fowl of the other. This man was one of the small ones. The big ones had been let out.

Q Well, would you say Mr. Schwartz was bigger than the Mayor?

A Yes, I would.

Q You would?

A Or at least as big.

Q Did Mr. Schwartz violate any public trust in addition to the crime he committed?

A He had a quasi-public position.

Q He was a politician, was he not?

A Yes, he was.

Q The Mayor was a duly elected public official?

A That is right.

Q Isn't the distinction that the Mayor at least was as bad off as his guilt was concerned as Mr. Schwartz?

A What do you mean, General, "at least as bad off"?

Q Wasn't the Mayor, at least from a moral point of view, as guilty as Mr. Schwartz?

A Oh, yes, from a moral point of view I think he was more so.

Q More so. And yet, having had the Board recommend his release in eleven months and five days and you having applied the rule that people in the same moral position should be treated in the same way, why shouldn't Mr. Schwartz get out, having served at least the same time as Mr. Flatley?

A Because, in addition to the moral issue involved was the fact that Mr. Schwartz was the instigator of it.

Q Was there anything in your mind in your recommendation against Mr. Schwartz that it was a Democratic politician?

A No, sir.

Q You mean that you look upon Democrats and Republicans with precisely the same eyes?

A Well, I attempt to.

Q Do you succeed?

A Not always.

Q Well, did you succeed in this case?

A I had in this case no Republicans to look upon.

Q Let me ask you this. You do not criticize the court for the last sentence of the court's letter that "he ought to serve at least as long as Mayor Flatley," do you?

A No, I do not. He said, "at least as long."

Q At least as long. Well, Mr. Schwartz did serve longer, did he not?

A Yes, he did. I think he served some fifteen days longer.

Q Well, he served one full year as against eleven months and five days; approximately twenty-five, twenty-six days longer. If you do not criticize the court for saying "he should serve at least as long as Mr. Flatley," do you criticize the Board for agreeing with the court?

A The court did not make the decision that he should stay the same length of time. I think that letter of the court, at least so I interpreted it, would mean—he pointed out first of all, all of the background of Mr. Schwartz and then he said that he should serve just as long. I do not think that is, by any means, a statement by the judge that it should be the same.

Q Mr. Johnson, you and I both know, do we not, that if the court was against his getting any clemency, all the court had to say, "This man should serve his minimum sentence. I am opposed to any clemency."?

A I think, very frankly, this, General. I think by the time the letter came along on Schwartz, the court was of the opinion that the Board was going to do what they wanted to do anyway and it did not make much difference what they recommended.

Q Well then, even being of that opinion he said I think that he should serve as much as Flatley?

A At least as much.

Q At least as much. All right.

Even your strenuous opposition you said you stated at the February Sessions—at the February Sesisons Mr. Schwartz had been in jail only since the previous August, had he not?

A That is right. He went in on August the 8th, 1955.

Q And then application was made on his behalf in February, 1956?

A That is right.

Q Now, your strenuous opposition was cupped in the following language, was it not, from page 228 of the transcript:

"In view of the activities of this man and the position in which he stood in this entire bribery situation in the City of Erie, I am very strenuously opposing any reduction of sentence at this time."

A Well, that was the time I was before the Board.

Q Yes, but couldn't you say, as you very easily could have, "I am opposed to the granting of any clemency."?

A Well, now, General, I think we are looking for those files you mentioned earlier. When I said "at this time," I certainly meant at the time when I was standing before the Board. That was in the form of saying, "I am opposed to any granting of commutation at this time."

Q That was in February, 1956?

A That is right.

Q He was not actually released until the following August, was he?

A The notice of that action was in April. April the 3rd, I received notice that he was commuted.

Q But, not to get out at once; but to get out and he got out August 8, 1956, isn't that right?

ATTORNEY GENERAL McBRIDE: That is all.

REDIRECT EXAMINATION.

BY MR. KOHN:

Q Mr. McLaughlin is one of your assistants, is he not?

A Yes, he is.

Q Do you know of anything that he, as one of your assistants in your office, has been called down here by the Attorney General?

ATTORNEY GENERAL McBRIDE: What is the question? I just did not hear it.

BY MR. KOHN:

Q I asked you whether Mr. McLaughlin was your assistant?

A He is.

Q Were you notified by the Attorney General that he was calling one of your assistants down here to consult with him in regard to cases which were under your jurisdiction?

A No, I was not. I have no objection to Mr. McLaughlin being here, but I do feel—and I have the utmost regard for you, General, and I recognize the fact that you do have the authority to supersede me, but I do think if you want one of my assistants here, the courteous way would be through me.

ATTORNEY GENERAL McBRIDE: Let me say to you that I agree with you at once. When I talked to Mr. McLaughlin, I did not even know that he was an Assistant District Attorney at the time, in our conversation. I did not learn it until later; otherwise, I would have talked to you and done it the way you suggest. It never entered my mind that a former District Attorney would now be an Assistant District Attorney. I had thought when he ceased to be District Attorney that he would be in private practice, but I would have referred to you, Mr. Johnson, exactly as you suggest.

CHAIRMAN TOMPKINS: I would like to get something straightened out here now in connection with these reasons filed by the Pardons Board in connection with commutation of pardons. I want to know what the Pardons Board considers a public record to be. I have heretofore, in the hearing we had in Judiciary on a bill with reference to this very issue, been informed that these reasons are a matter of public record. We are all very well aware of the fact that at the beginning of each Session of the General Assembly, the Governor transmits to the General Assembly all actions of the Pardons Board for the previous two years and those records are made a part of the Appendix of the Legislative Journal and, therefore, are an official record open to the general public. Now, in the interim between the time of transmittal, January of 1955 and January of 1957, those reasons are on file in the office of the Secretary of the Commonwealth. I want to know here and now, are they public records and are those records available to the public if they make a request to see them?

ATTORNEY GENERAL McBRIDE: Yes.

CHAIRMAN TOMPKINS: Very well.

SENATOR YOSKO: But, Mr. Tompkins, I do believe though, that when a person applies to see a public record, they should not go to some clerk in the office. Many times I go over to the Auditor General's Department and State Treasurer's Department to ask for a public record in the form of an audit report, but I will not go to some employee over there. I will go to the head of the Department. Frankly, if I do not go to the head of the department, the employee that I do contact will suggest that I first go up to the front office. I do not see anything wrong with that procedure.

CHAIRMAN TOMPKINS: Well, if they are public records then a person, particularly the district attorney who has had cases before the Pardons Board, should be entitled to see that record without the necessity of having to go to the members of the Pardons Board. I quite agree with what you are just stating here, but you and I know what that procedure is, perhaps, because we are acquainted with it. But, these people coming in from the State that perhaps are not acquainted with that and they have an idea of a public record being like the files in a prothonotary's office and your recorder of deeds office where they can go in there and ask for it and they bring it out and show it to them.

SENATOR YOSKO: I will agree with you, but if the clerk, some typist or stenographer in the office, and I think we were told this morning that the place is understaffed, if that girl gets instructions not to show certain parts of the files to people without the consent of either Mr. Hean or one of the members of the Board, certainly if I want to see a record and the girl tells me that, I will take time out if I am interested enough to see the Secretary of the Board or a member of the Board just as I do when I go to some department and ask for a record.

MR. KOHN: Do you have any further questions on this case?

CHAIRMAN TOMPKINS: No, I have no other questions.

MR. KOHN. I would like to proceed with this witness on another case.

CHAIRMAN TOMPKINS: Very well.

REDIRECT EXAMINATION.

BY MR. KOHN:

Q Mr. Johnson, I think Mr. Yosko asked Mr. McLaughlin this morning whether or not he knew of any cases that had any political implications and he mentioned the Ben Kaufman case. Did you try that case?

A I did.

Q And, Ben Kaufman was before this Board from Erie County at No. A3344 September, 1956, was he not?

A When was that?

Q The number of the application is A3344 September, 1956.

A He was first before the Board in November of 1955, I believe, and then he was up again in September of 1956.

Q Well, tell us what he was convicted of.

A He was convicted of two counts; one of receiving stolen goods and the other conspiracy.

Q What was his sentence?

A One and a half to three years.

Q What was his plea?

A He pled not guilty and stood trial

Q Was he convicted?

A He was convicted on both counts

Q Did he appeal to the Superior Court?

A He took an appeal to the Superior Court of Pennsylvania.

Q Was that appeal refused?

A That appeal was refused.

Q Now, will you give us briefly just some of the facts surrounding this case?

A Ben Kaufman has been engaged in the junk business in Erie, Pennsylvania, for a number of years. He has been a suspect at various times of acting as what we refer to in the vernacular as a fence, although they had not been able to prove those specific cases.

Q Had he any previous record?

A No.

Q What were the facts briefly in this case?

A The facts in this case was that Mr. Kaufman went to an employee of the Marks Toy Company in Erie, Pennsylvania, and asked him to get plastics out of the place where he was employed.

Q Raw plastics or made plastics?

A Raw plastics; the new raw plastics. This employee was given—after ascertaining that he was able to get another individual in the plant to work with him he went to Mr. Kaufman and although Mr. Kaufman operated a place of business where he bought scrap materials, he gave him a key to a garage which was located in a private garage on the east side of the City of Erie and instructed him to deliver this plastic there. Subsequently, the men were apprehended removing the plastics from the Marks Toy works; they gave a full statement. In the meantime, they had become fearful of being apprehended and had returned the key to Mr. Kaufman. They, upon being arrested, gave the police the full story. The police went to Mr. Kaufman and asked him for the key to the garage which he denied having any knowledge of. He subsequently did acknowledge that he had the key to the garage and he gave the police the key to the garage where some sweepings of the new plastic was found.

Q There had been a certain amount of plastic sold to a Cleveland firm by Mr. Kaufman?

A That is right.

Q And Mr. Kaufman denied his guilt and he did not take the stand?

A He denied his guilt and did not testify.

Q Neither did he at any time explain to the police where he had gotten the raw plastics which had been sold to the Cleveland firm?

A He gave no explanation of that.

Q Now, this applicant, did you appear against him on October 11, 1955?

A October—

Q When his first application was heard?

A That was November Term, 1955, I believe. Mr. McLaughlin was District Attorney at that time and appeared as he testified this morning. That is when the incident took place that he testified to.

Q Was he opposed to any commutation on the ground that the case was then pending before the Superior Court?

A He was.

Q And, subsequently, you became District Attorney and did you have any opportunity to oppose this application?

A Yes. It came up again in September, 1956, at which time I appeared and opposed it.

Q The first time, who represented the defendant at the trial?

A He was represented at the trial by Attorney John Wolford.

Q And at the time that the original application was heard did Judge Evans oppose any commutation for this defendant?

A It is my understanding that Judge Evans opposed it both times.

Q Both times?

A Originally and the second time.

Q I have a letter that I will put in later. I just want to get the background.

Now, who represented the defendant at the trial did you say?

A Attorney John Wolford.

Q Who represented him on the application the first time it was heard?

A The first time it was heard he was represented likewise by Attorney John Wolford.

Q And at the time it was heard the second time who represented him?

A Attorney Maurice Coughlin.

Q And what is Maurice Coughlin's position in the Democratic Party in the City of Erie?

A He is Assistant City Solicitor under Mayor Gardner and he has been, on several occasions, City Campaign Manager for the Democratic Party.

Q And City Chairman?

A City Chairman, also.

Q Who is Mr. Phelps in Erie?

A He is the Democratic County Chairman.

Q Do you know a man by the name of Jones?

A No, I am not acquainted with a man by the name of Jones.

Q Did you get any notice of the—The first time there was an application it was denied, was it not?

A It was refused, yes.

Q And then there was a rehearing granted, is that correct, in which you appeared and argued the case on the facts?

A That is right.

Q The first time it was argued on the basis that it should not be commuted because it was before the Superior Court, is that correct?

A That is right.

Q And the second time was the application up on the rehearing also denied?

A No, the second time it was granted and the sentence was commuted.

Q Now, did Mr. Coughlin represent the applicant at that time?

A At the time of the rehearing, he did. He filed a petition for rehearing of which I received a copy.

MR. KOHN: You may cross-examine him.

RECROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q How old was this man Kaufman?

A I am afraid I cannot give you the exact age—forty.

Q Forty?

A Forty.

Q Had he lived in the community all his life?

A Most of his life; yes.

Q And had never been arrested before?

A Yes, that is right.

Q And this incident, this conversation, shaking of hands in September, 1955, were you present?

A I was not present.

Q Anything that you know that was because of what Mr. McLaughlin told you?

A That is right.

Q Now, you were present on the second time in 1956?

A That is right.

Q Now, the incident in September involved a shaking of hands with Mr. Finnegan, as I recall it, is that right?

A I think that must have been November. I believe in the November, 1955, Session.

Q I accept that. In the November Term, 1955, someone shook hands with Mr. Finnegan so that if any question of political influence arose then, it would be through Mr. Finnegan, would it not?

MR. KOHN: Now, just a minute. This man does not know anything about that.

ATTORNEY GENERAL McBRIDE: We are not entitled to know that no political influence—

THE WITNESS: I do not know anything about that situation.

MR. KOHN: He does not know—

ATTORNEY GENERAL McBRIDE: How is he going to answer to what I am leading up to?

In any event, the conversation was with Mr. Finnegan—

MR. KOHN: He does not know about that.

THE WITNESS: All I know is what Mr. McLaughlin testified to.

BY ATTORNEY GENERAL McBRIDE:

Q I am just refreshing your recollection and the recollection of the committee. In 1956, September, Mr. Finnegan planned the successful commutation?

A I would not say he planned any. I do not believe he was on the Board.

Q Of course, he wasn't. So that in 1955, when this man is said to have spoken to Mr. Finnegan and the Board turned the application down in 1956, when they granted the commutation, Mr. Finnegan wasn't even on the Board?

A I believe that is correct.

Q Now, when did he go to jail?

A I believe he went to jail January 10, 1956; January or February, 1956. This copy I have here is so blurred. It is a carbon copy and difficult to read.

Q Have you got the original affidavit?

A Yes. You see, it had not gone in on the original.

Q It was not in at all on the original?

A That is right.

Q So far as you know, Mr. Johnson or Mr. Kohn, I would like to get on the record when he did go to jail and how much time he had served at the time he was commuted and when he got out?

A I believe February the 9th, General, was the date he started serving his sentence.

Q And when did he get out? When was he released?

CHAIRMAN TOMPKINS: Here is the warrant. Wouldn't that show that?

ATTORNEY GENERAL McBRIDE: I wanted it because this isn't one that we had any notice of; otherwise, I would have been better prepared on this one.

MR. KOHN: Sentenced February 9,—to be computed from February 9, 1956, to one and a half years to three years.

ATTORNEY GENERAL McBRIDE: Now, what does your record show as to the date of release? How much did the man actually do? That wouldn't show the actual date of release in here. He did about one year?

MR. KOHN: It was commuted to one year.

ATTORNEY GENERAL McBRIDE: Commuted to one year?

MR. KOHN: Yes. Sentenced on January 6th, which would mean that he went to jail about the 9th of January.

BY ATTORNEY GENERAL McBRIDE:

Q From the minimum sentence of one and a half years in jail this man, with no previous record, was commuted to serve one year, but his maximum period on parole was not disturbed at all?

A No, it was only a commutation of his minimum term from one and a half down to one.

ATTORNEY GENERAL McBRIDE: That is all.

MR. KOHN: Mr. Hean, will you take the stand, please? Will you bring with you the records you have on this case; whatever files you have.

MR. HEAN: You have the records.

MR. KOHN: Whatever files you have when the application was considered.

MR. HEAN: I have February, 1956, January to June, 1955. What did you—

MR. KOHN: Your records for November of 1955.

MR. HEAN: I will have to send upstairs for them.

MR. KOHN: All right, you send up for it and I will get on to the next time it was heard, May 15, 1956.

MR. HEAN: May 15, 1956; that is upstairs.

MR. KOHN: Well, the petition for rehearing is here. Will you send up for those records, please, and we can work with what we have here.

CHAIRMAN TOMPKINS: While Mr. Hean is up for his records, let's declare a five minute recess.

(Whereupon, the hearing was recessed at 3:25 p.m., for five minutes).

(After recess)

CHAIRMAN TOMPKINS: Mr. Kohn.

FRANK R. HEAN, Recalled on

FURTHER REDIRECT EXAMINATION

BY M. KOHN:

Q Mr. Hean, will you refer yourself to the case of Ben Kaufman and I ask you whether or not he filed an application at No. A3344 before the Board of Pardons?

A Filed in October—

Q Filed October 11, 1955, is that right?

A That is right, yes.

Q And on that he asked for a commutation of his maximum sentence, did he not?

A The Pardons Board number is A3344.

Q That was an application for commutation of his maximum sentence, is that correct?

A That is correct.

Q Now, at that time was his case pending before the Superior Court on appeal?

A I have a note in my binder here that applicant has appealed conviction of the Erie County Superior Court.

Q And it was certified to the Supreme Court?

A Certified to United States Supreme Court.

Q Now, at the time this was heard he had not started serving any sentence, is that correct?

A According to my records he had not.

Q And what was the action of the Board on this particular application?

A The Board refused the application.

Q And the application at that time was represented by John M. Wolford—

A John M. Wolford of Erie.

Q Pennsylvania, is that correct?

A That is correct.

Q When did he again take action to either get a rehearing or file another application?

A According to my card, he requested a rehearing as of May, 1956—May 14th, somewhere around there.

Q Now, Mr. Hean, would you kindly pick out the request you referred to?

A A man by the name of Maurice J. Coughlin under a letter dated May 11, received by us May 14, of 1956.

CHAIRMAN TOMPKINS: How do you spell that?

MR. KOHN: C-o-u-g-h-l-i-n.

THE WITNESS: Maurice J.

BY MR. KOHN:

Q And he submitted with his request a petition for a rehearing, did he not?

A He did.

Q Now, will you check your records and see what action was taken on that.

A My records would indicate that on or about the 7th of June of 1956, the Board of Pardons refused his request for a rehearing by a vote of three to one.

Q Now, subsequently did you know who Mr. Coughlin was? Had you ever met him before?

A I never met him before. I cannot place him in my mind at present.

Q Subsequently, was there another rehearing on this matter?

A My recollection—

SENATOR YOSKO: An application for rehearing?

MR. KOHN: Yes, an application for rehearing.

THE WITNESS: My records indicate that along about in August of the same year, 1956, there was another request made for rehearing.

BY MR. KOHN:

Q Can you tell us by whom that request was made? You said about August what?

A Around August, the last of August. I have here 8/30/56.

Q Well now, previous to that, had the Board received any letters asking for a rehearing from individuals?

A I will have to look at the file first, and then I will—

Q Certainly.

A Received a letter dated June 1st from a gentleman, Rabbi Aaron Decter of Philadelphia who asked the Board to reconsider the case of Ben Kaufman.

Q Did you also receive a letter from another gentleman by the name of Abraham B. Shoulson, Rabbi, dated June 4, 1956?

A We so received a letter from the Rabbi, Rabbi Abraham B. Shoulson—S-h-o-u-l-s-o-n.

ATTORNEY GENERAL McBRIDE: Was that before the rehearing was refused in June or after? That is, was it after the rehearing was refused?

MR. KOHN: It was about May 15th, was it not, Frank?

THE WITNESS: June 7th.

CHAIRMAN TOMPKINS: June 7th, I believe they refused the rehearing.

ATTORNEY GENERAL McBRIDE: Both of these letters would be before June 7th?

MR. KOHN: They came in about the same time, the same day.

THE WITNESS: About the same time. Right before it, a day or so before.

BY MR. KOHN:

Q Now, will you tell us what you replied to both of these letters?

A On the same day I replied to both gentlemen; Rabbi Decter of Philadelphia—

BY CHAIRMAN TOMPKINS:

Q What is the date of your copy?

A June 7th.

Q June 7th?

A Of 1956. I wrote the gentleman as follows:

"The Board considered very carefully the request for a rehearing of Ben Kaufman and regrets exceedingly that they must refuse such request for the June meeting. The reason is rather obvious. We have nearly 155 cases to be heard in two days, and the Board felt that they have

such a tremendous list that it would be impossible for them to give the cases now listed the careful study and consideration that each deserve. They were very reluctant to add to their burden even one more case.

"Regretting exceedingly the refusal, I remain

"Sincerely yours,

"Frank R. Hean"

Q Do you have the other letter also?

A Yes, I have the other letter which Rabbi Shoulson wrote us which I replied to on the same day, the 7th of June.

"Dear Rabbi:

"The Board considered very carefully the request for a rehearing of Ben Kaufman and regrets exceedingly that they must refuse such request for the June meeting. The reason is rather obvious. We have nearly 155 cases to be heard in two days, and the Board felt that they have such a tremendous list that it would be impossible for them to give the cases now listed the careful study and consideration that each deserve. They were very reluctant to add to their burden even one more case.

"Regretting exceedingly the refusal, I remain."

BY MR. KOHN:

Q Now, I show you another letter dated May 29th, addressed to Honorable Roy E. Furman, Lieutenant Governor, Capitol, Harrisburg, Pennsylvania, on which the letterhead is "Leader Woodland in Israel" and on which the all Pennsylvania Commission is listed as Honorable Herbert B. Cohen; Advisory Committee, Honorable Roy E. Furman. Other members of the committee, Honorable Genevieve Blatt, Honorable James Finnegan, and Honorable Henry E. Harner. That is correct, is it not, among other names such as Dilworth, Clark, et cetera?

A They have seemed to cover the leaders of the Commonwealth.

Q Will you read that letter for the record?

A You mean the one addessed to Lieutenant Governor Furman?

Q Yes.

A This is a letter dated May 29, 1956, addressed to the Lieutenant Governor:

"Myron Prosser, our Co-Chairman of the Erie Commission, has told me about the very severe hardship case involving Ben Kaufman, of Erie, who has spent the last six months in the Allegheny County jail. He was sentenced to a year and a quarter and has spent almost half that time already.

"In addition to the original hardship, special problems have been created during the past six months. Mrs. Kaufman has had to send her two children to a foster home to be taken care of, and she herself has been working as a secretary for some firm.

"The appeal by Ben Kaufman will be presented to the Pardon Board very shortly, as a matter of fact before July 10th. If you could use your good offices to help in rehabilitating this man and help to extend to him a suspended sentence for the rest of his term so that he can help reunite his family, I believe it will be a good deed. Needless to say, we all believe the most important function of our social and public institutions is to help in the rehabilitation of the offender and help him return to the community. I am convinced that you as one of the great humane leaders of the Commonwealth will concur in this opinion.

"May I hear from you very shortly. With many thanks and my highest esteem, I am

"Sincerely yours,

"Rabbi Aaron Decter
"Coordinator.

"P. S. I would appreciate greatly if I could have the opportunity to meet with you personally to discuss the matter."—and initialed "A. D."

Do you want my reply?

Q Yes, you might read your reply.

A I replied on June 11th to the Rabbi in Philadelphia:

"Dear Rabbi Decter"—No, Roy Furman answered that. He said:

"I have referred your letter of May 29, with reference to the case of Ben Kaufman of Erie, in whom you are interested to Frank Hean, Secretary of the Board of Pardons. I have asked him to make it a part of the record in the case."

That has been done.

Q Do you know the political position held by Myron Prosser?

A I do not.

Q Do you know whether or not he consulted any members of the Pardons Board individually in connection with this case?

A I would not know, Mr. Kohn.

Q Well, how would you be able to write a letter saying that he did?

A Myron Prosser?

Q Yes, sir.

A What did I write to Myron Prosser?

Q No, I did not say you wrote to Myron Prosser. I asked you whether you knew whether Myron Prosser did?

A Oh, I would not know whether he wrote to—

Q Do you know whether Mr. Coughlin contacted any members of the Pardons Board and talked to them individually?

A I would not know; no, sir.

Q Do you know whether Mr. Phelps, the Democratic County Chairman in Erie County, contacted any of the members of the Board and talked to them individually?

A I would not know, Mr. Kohn.

Q Do you know if a Mr. Jones had contacted any members of the Board?

A I do not know.

Q Then I refer you to your letter of August 30, 1956, and ask you to read that into the record.

A This is a letter directed to the members of the Board, dated August 30, 1956, on the Ben Kaufman case from me—

Q To whom?

A To the members of the Board.

"This applicant was convicted of receiving stolen goods and conspiring with two accomplices who obtained from the Louis Marks Toy Company a quantity of plastic material.

"The application was heard by the Board in November, 1955 and refused. A rehearing request was forwarded

by Maurice J. Coughlin, Esquire, and the Board, on June 7, 1956, refused to grant the request.

"Another request has been presented to the Board on behalf of this applicant by Mr. Coughlin, Mr. Jones and Mr. Phelps."

Q That is Mr. Coughlin the attorney, it it not?

A Yes.

Q Now, let us stop there a minute. Will you kindly show me where in the record there is any such application of any of those gentlemen that you mentioned

A I do not have it before me.

Q There is the entire folder.

A I have not gone through it, Mr. Kohn.

Q If I tell you that there is no such—

A I take your word for it then.

Q You would? Thank you, Frank. So then there isn't any such application in for a rehearing? If I say so will you take my word?

A I take your word for it.

Q Now, Mr. Hean, where would you have gotten the information that Mr. Coughlin, Mr. Jones and Mr Phelps had contacted the different members of the Board and talked to them about it when you wrote that letter?

A Somebody may have told me so; members of the Board I judge.

Q And you did not know, you say, that Mr. Phelps?

A I do not know Mr. Coughlin or Mr. Phelps. I do know a Mr. Jones.

Q You did not know that Mr. Phelps referred to in there was Mr. Alton Phelps, the Democratic County Chairman of Erie County?

A I never met Mr. Phelps. I know Mr. Jones.

Q You know Mr. Jones?

A Yes.

Q Who is he?

A Harry Jones.

Q And what is his relation to the applicant?

A As far as relationship, none. As far as acquaintanceship, he lives over in Kane, Pennsylvania—

Q Now, I ask you his relationship to the applicant?

A Oh, I do not know what relationship.

Q Did you look at the parole report which lists him as a resident of Kane and being a direct relative of Mr. Kaufman?

A I never knew that Harry Jones was a relative of Ben Kaufman.

Q Now, if it was in there—

A Well, if it was in there it was before the Board

ATTORNEY GENERAL McBRIDE: Is he the Harry Jones who used to be judge?

THE WITNESS: No.

BY MR. KOHN:

Q Now, go on with the letter, if you please.

A "I understand that Mr. Phelps was in the city this week and spoke to various members of the Board on this matter.

"As you know, Mr. Kaufman appealed the sentence of two and a half to five years to the Superior Court, entered to Nos. 248, 249 April Term 1954, and the court upheld the judgment of the Erie County Court.

"The trial judge, the Honorable Elmer L. Evans, stated that he was strongly opposed and likewise district attorney, Damon McLaughlin, Esquire, expressed his opposition at the open hearing.

"The applicant was sentenced on October 11, 1954, but due to the appeal he did not commence his sentence until February 5, 1956.

"A special listing for the September 1956 Session is requested. The suggestion has been made that since no special meeting of the Board will be held prior to the September Session, this request be circulated among the members of the Board. This is an exception to our practice of considering hearings only at Executive Sessions, but under the circumstances this exception to our practice should be permitted.

"Kindly indicate your vote—".

Q Well, Mr. Hean, if there is nothing in the record asking for a rehearing, there must also follow there is nothing in the file asking for a special listing.

A I have a letter here dated August 2nd.

Q I haven't gotten to that letter yet. I am referring to your what-you-call'um here. This is August 31st, right? I am saying there was no rehearing petition, is that right?

A Not a formal rehearing.

Q And your—

A Except this, I have a letter dated August 2nd—

Q From the attorney?

A No, from Harry Jones.

Q Harry Jones.

A Evidently addressed to the Lieutenant Governor who, in turn, asked me to check and see if this case could be listed in September.

Q Now wait, I will get to that, if it is all right with you. You do not have anything in the file in regard to this particular request by Phelps, Coughlin, and Jones.

A I evidently do not because you checked the file.

ATTORNEY GENERAL McBRIDE: Unless that letter of August 2nd bears on it.

MR. KOHN: I will get to that.

THE WITNESS: That letter bears on it. I mention Mr. Jones in there.

BY MR. KOHN:

Q But you mention Mr. Coughlin, Mr. Jones and Mr. Phelps in there as having seen the different members of the Board and, therefore, asking for a special hearing and having discussed the case with them.

A Well, who said all that?

Q Didn't you say in here—

A I didn't say all that.

Q Didn't you say in here—Let me point it out to you:

"Another request has been presented to the Board on behalf of this applicant by Mr. Coughlin, Mr. Jones and Mr. Phelps. I understand that Mr. Phelps was in the City"—that is the Democratic County Chairman, is that right?—"this week and spoke to various members of the Board on this matter." Is that right?

A That is what I stated there. I understand that.

Q Now, then, there is a further letter I think, dated August 10, 1956, from Roy Furman to yourself which states as follows: This is to yourself, yes.

"Will you check and see if this case can be listed for September."

A Yes, Sir.

Q Now, you do not know if Mr. Furman made that

request on you as a result of his conversation with Mr. Phelps, do you?

A Oh, no. I wouldn't know that.

Q I call your attention to a letter dated August 2, 1956, addressed to Honorable Roy E. Furman, Lieutenant Governor, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, on the letterhead of the Kane Democratic Club, 118 Fraley Street, Kane, Pennsylvania, Harry Rook, Treasurer. This letter reads as follows:

"Dear Roy:

"Some three or four months ago, Attorney Maurice Coughlin of Erie, who replaced John Wolford in behalf of Ben Kaufman filed an application for rehearing. This appeal was denied for the September hearings and was too late for the June hearings.

"Ben is still in the workhouse in Allegheny County. His wife was forced to sell all of their furniture and move in with her father taking the oldest boy; the younger child is in a home and Mrs. Kaufman has secured employment. Their financial situation is very acute since it takes all of her meager earnings to maintain the youngest in a home and to maintain the older lad with her father.

"It is nothing short of candid that the situation is far from wholesome, particularly since Benny is the reluctant and imprisoned individual, victim of a perpetrated hoax and false testimony by the two convicted thieves who were out of jail in a matter of about four weeks. I refer to Orsinni and Colonna; one of which contacted Ben to get rid of pure refuse from the Marx Toy plant.

"Myron Prosser of Erie talked with Herb Cohen for approximately a half an hour two or three weeks ago in this connection and Herb promised to see what could be done to bring up Benny's case in the September hearings. In the name of justice and in furtherance of a project pointed towards Ben's deliverance from economic bondage and the opportunity to relive an honorable and decent life, I appeal to you to see what can be done to get him scheduled.

"With kindest, most personal regards to you, Mary and all, I am

"Sincerely yours,

/s/ "Harry".

That Harry evidently refers to Harry Rook, Treasurer of the Democratic Party in Kane, does it not?

A I don't—

Q It says on it. Is that right?

A Yes, that is right.

Q Now, after the Lieutenant Governor received that letter he sent you this note of August 10 asking you whether it could be specially listed, did he not?

A Yes, he did.

Q And pursuant to that, you wrote this letter that Phelps, Coughlin and Jones had seen various members of the Board and taking exception to the considered practice under the circumstances—I do not know what they were.

A The circumstances are that the Board meet at executive session and considers these requests for—

Q Why was this a special—

A Why because they were on vacation.

Q Well, why was this a special situation and had to get immediate attention? Was it on account of the letters?

A I presume that and also the fact that the Lieutenant Governor asked whether it would be possible to put it on in September and I complied, naturally, with his request whether it could be and I so circulated among the members of the Board this request.

Q Well, then there had been a rehearing which had been refused?

A That is correct.

Q And the rules of the Board are that on other additional rehearings additional new testimony or additional facts should be given for a rehearing?

A That is correct.

Q Now I ask you, Mr. Hean, to point out to the committee what new facts outside of the difficulty of his wife or his children, as I understand it, would justify the action by the Board?

A Well, I would have to study back over the whole case, Mr. Kohn, to find out what the new factors were that were not previously presented that they were going to bring forward in the rehearing request.

Q In other words, if there were any new factors they were in those letters from the Kane Democratic Club Treasurer, is that right?

SENATOR YOSKO: Now: just a minute. Now, wait a minute. The Parole Board has no control over who writes a letter and on what stationery they write a letter. It is the substance of the letter that counts, not the stationery that it is written on. The Parole Board does not tell somebody to write a letter on political stationery or any other kind of stationery. Let's consider the facts that are stated in that letter.

BY MR. KOHN:

Q What facts are there, Mr. Hean, that would authorize, outside of letters from these individuals—

SENATOR YOSKO: Well, I heard some facts about selling the furniture because of financial circumstances. I heard—

MR. KOHN: You don't think that is true in every other case?

SENATOR YOSKO: Well, whether it is or whether it isn't—It is not true in every case. We are talking about this case, not every case.

MR. KOHN: All right. I am willing that he tell you what—

SENATOR YOSKO: There is a child that was in somebody else's home because she was not able to support the child. His wife—

MR. KOHN: Mr. Hean can tell you that. That was my question.

SENATOR YOSKO: Well, let's be reasonable about this thing.

MR. KOHN: What do you mean "reasonable"?

SENATOR YOSKO: Just what I say.

MR. KOHN: Well, what do you mean?

SENATOR YOSKO: Well, the Board has no control over the things.

MR. KOHN: I didn't say they did.

SENATOR YOSKO: Well, all right—

MR. KOHN: I am just asking him to tell us what new reasons there were according to Rule VI.

SENATOR YOSKO: If you want to go into the reasons, go into the reasons, but let's not go into—

CHAIRMAN TOMPKINS: All right now, one at a time.

SENATOR YOSKO: Democratic stationery and all that sort of thing.

CHAIRMAN TOMPKINS: Now, just a minute. I think that stuff will speak for itself as to what stationery it comes on and so forth, and I think the inquiry as to what new facts prompted the Board to this and circumstances that prompted the Board to do this is proper inquiry.

THE WITNESS: I can only say that the facts presented here so eloquently by Harry, the Board again considered them. They have the privilege of reconsidering any action they may wish to do. What prompted them is distinctly their own decision. I am not familiar with that, their thinking.

BY CHAIRMAN TOMPKINS:

Q Let me see that record a minute. This letter which you circulated to the Board under date of August 30, that is initialed by all four members of the Board with favoring a rehearing.

A That is correct.

Q I think you said the June 7 was a three-one decision.

A That is correct.

Q Who dissented on that one?

A I will tell you in a minute. The dissent was Miss Blatt, Mr. Cohen and Mr. Harner.

Q Mr. Furman was—

A Mr. Furman was in favor of it.

BY MR. KOHN:

Q It was Mr. Furman who wrote the letter to you to see whether it could be put on special?

A That is correct.

Q Now, did Mr. Cohen disqualify himself from sitting on that case because Myron Prosser talked to him for a half an hour about the case?

A I have no record of his not sitting.

Q What does the recommendation show? Mr. Cohen was in favor of the commutation?

CHAIRMAN TOMPKINS: Has it been brought out here yet who Myron Prosser is?

MR. KOHN: Nothing except what the letter says that he is co-chairman of some Erie project.

THE WITNESS: I didn't get what you said.

BY MR. KOHN:

Q I asked you whether Mr. Cohen disqualified himself from sitting and hearing on that case?

A Not according to the record.

Q And he voted in favor of commutation?

A That is correct.

MR. KOHN: Myro Prosser according to the previous letter here—Myron Prosser is referred to, Mr. Tompkins, by Rabbi Aaron Decter in a letter dated May 29, 1956 on the Leader Woodland In Israel—The first paragraph is as follows:

"Myron Prosser, our Co-Chairman of the Erie Commission."—I don't know what that is.

ATTORNEY GENERAL McBRIDE: For your information, the Erie Commisison is for the Israel bond drive and so forth.

BY MR. KOHN:

Q This letter was in the files that all the members had a copy of, was it not?

A You mean this letter?

Q Yes, the Kane letter.

A Well, at the time this request was distributed to the members of the Board in which they indicated their favoring such a listing, this letter was attached to the—

Q The vote?

A Yes, the vote.

Q On whether a rehearing should be granted?

A Yes, they had an opportunity to read the letter.

Q Do you know any of the members of the Board who requested Mr. Cohen's information as to what was discussed with Myron Prosser?

A That I don't know.

Q Did any of them find out from Mr. Cohen what Mr. Phelps discussed with him?

A That I would not know.

Q Did anybody ask him what Mr. Jones discussed with him?

A Do you mean the members of the Board?

Q Yes.

A Well, the members of the Board are here.

Q I mean, do you know whether—I mean, during the rehearing on this, the reconsideration, did the question come up at all of what they talked about?

A No, sir.

Q These men didn't consult you or the members of the Board in regard to procedure, did they?

A You mean Mr. Coughlin, Mr. Prosser or Mr. Phelps? I have no recollection. There was a Mr. Jones—Harry Jones consulted me on this procedure that I recall speaking to. I have known Harry for many years.

Q Wait now, Mr. Kaufman had an attorney, did he not?

A Yes.

Q A Mr. Coughlin who was familiar with procedure?

A I know he is a very competent gentleman, yes.

Q He filed this petition for rehearing which was refused?

A Thats right.

Q And no other petitions for rehearing outside of these letters were filed?

A Well, we consider it a petition whether it is formally in shape as Mr. Coughlin's, an experienced lawyer would present it.

Q I am asking you whether Mr. Coughlin later filed any petitions for rehearing in writing?

A I have no such record of it here.

Q Well, necessarily it must follow that the action of the Board in allowing or considering a rehearing was based upon either the verbal appearance of Mr. Phelps, Mr. Coughlin or Mr. Jones in conversation they had with him, plus the letter from Kane?

A I received a letter from this Harry, what is his name, Harry Rook—

Q Well, then, it does not matter whether an individual requests—It does not matter who requests it, the Board will consider it?

A Will consider it; yes, sir.

Q And would they then notify the attorney of the date that has been set?

A They could, as we did in that case notified Mr. Coughlin, I believe.

Q Now then, what minutes or facts of the particular meeting in consideration of this rehearing which was granted on what do you have?

A I have none because that was circulated to the various offices of the members of the Board when summer recess was in session.

Q Well, it was specially set for a certain time, was it not?

A For September.

Q And at that time, was it heard in open hearing or was it not?

A In September--I believe it was listed for the September hearing of the Board. That was listed specially and given a number of 122A. Mr. Coughlin was present in behalf of the applicant, Ben Kaufman.

Q And at that time was Mr. Kaufman still protesting his innocence.

A Who, Ben Kaufman?

Q Yes.

A I have my notes here. "Applicant's Description of the Crime: Applicant alleges he was found guilty of the crimes on circumstantial evidence of receiving stolen goods and plactics and pled not guilty of the crime." And then there is a little description of—

Q This is the same sheet, however, that you use in the original hearing, is it not?

A One and the same sheet, yes.

Q Did anybody dissent from granting that commutation?

A You mean at the September hearing?

Q When it was granted, yes.

A Yes

Q Mr. Harner, wasn't it?

A Mr. Harner did.

Q And did District Attorney Johnson oppose it?

A I have McLaughlin opposed on parole report as of October, 1955. I have nothing from Mr. Johnson. However, I believe Mr. Johnson was present.

Q Did the judge oppose it?

A The only report I have is, Judge Evans strongly opposed by letter of October 14, 1955.

Q Now, did the Board consider the parole report; the parole officer's report?

A It was before them.

Q Each had a copy?

A Each member did.

Q Now, when you consider these matters from time to time, do you get a new parole report each time or do you just keep the old one and consider that?

A In this instance, we did not get a new parole report. This was based on the one in October of 1955 which we had, I believe. I don't think there is another one in there, is there, Dave?

Q Now, then the Board then had before it the parole report which stated that the officer investigating for the parole board didn't agree with the facts as set forth in the applicant's statement?

A I would have to look at it. Yes, he stated to the Board that the statements under 15A which is where he alleges conviction by circumstantial evidence are not substantiated by the testimony of the accomplices or the information received by the parole agent from the Erie City police.

Q At no time did he ever admit that he was guilty of this crime?

A Well, I can only take from his statement; I do not know what he personally stated.

Q Do you know as a matter of fact that Attorney Coughlin in his decision for rehearing stated to the Board that the original councel had no right to state to the Board that he was actually guilty? Wasn't that one of the reasons given by Coughlin on his petition for a rehearing?

A Yes, that is right.

Q Coughlin still maintained this man was innocent.

A That is correct.

Q Now, I refer you to the copy of the commutation of the minimum sentence for Ben Kaufman, specifically to the recommendation of the Board: "The Board, however, believes this applicant has been sufficiently punished." Where is there anything in the records from which that could be ascertained?

A I think I stated some days previously that I take notes of the discussion in the executive session and somewhat try to get a consensus of opinion on the thinking of the Board members which I incorporate.

SENATOR YOSKO: Let me see that. You don't, you don't—you have to read the whole thing and not just a part of it.

MR. KOHN: I intend to read the whole thing.

SENATO YOSKO: All right. This is what it says:

"The Board"—and this is all one thought and the conclusion is based on this thought—"The Board believes this applicant has been sufficently punished. The fact that his fellow conspirators, Orsini and Colonna, received only a sentence for from four to eight months in the Erie County Prison and were released after serving two and one-half months persuades the Board that the applicant should have his sentence commuted." That is the whole thought. You only read a part of it. And I am assuming they arrived at that conclusion because of the sentences that were granted, that were meted out to the two conspirators.

MR. KOHN: Is that the assumption of the Board or yours, Senator Yosko?

SENATOR YOSKO: That is their conclusion. That is one of the reasons they give in there.

MR. KOHN: May I go ahead?

SENATOR YOSKO: Yes.

BY MR. KOHN:

Q Is there anything—in answer to my question, is there anything in this record to justify the Board coming to the conclusion that this man has been sufficiently punished?

A I think the answer which Mr. Yosko has just made to you would be eloquent in reply to your question.

Q That was the reason you wrote that sentence in there, was it?

A There was a discussion I have no doubt at the executive session discussing the sentence he received, the sentence the accomplices received and the whole situation that I made a little note probably like I usually do "sufficiently punished" and on that I complied—

Q Do you have those notes?
A No, I destroy them.
Q And you destroyed this one, too?
A When I wrote that.
Q Now, you state in here that, "The fact—
A They are not records, Mr. Kohn, as a prominent newspaperman said.

Q The fact that his fellow conspirators, Orsini and Colonna, received only a sentence from four months to eight months in the Erie County Prison and released after serving—

SENATOR YOSKO: Now wait a minute, now wait a minute, Mr. Kohn. Is that the final order?

MR. KOHN: Yes, Sir.

SENATOR YOSKO: I think we understood before that that final order is not the product of the Secretary.

MR. KOHN: He said he wrote it.

SENATOR YOSKO: It is the product and the opinion approved by the Board members.

MR. KOHN: That is right.

SENATOR YOSKO: And when you say he inserted it in there we must presume that it is the language and it is the opinion of the Board and not Mr. Hean.

MR. KOHN: I will accept that.

SENATOR YOSKO: If you will examine him and refer to the Board's action that is one thing, but when you talk about Mr. Hean inserting it in the opinion or in that order, I just don't think it is proper.

Q You are the one who promulgated these reasons and they were accepted by the Board?
A I write them subject to their correction and criticism, alteration and review.
Q After they have approved them—
A They have the opportunity to do that.
Q Did they correct this one?
A I have no recollection of that.
Q They approved it?
A They approved that.
Q That was your reasons then?
A Their reasons.
Q And yours? You wrote it?
A Mine and theirs, too.

Q Where did you get the information that they only got four to eight months and were released in two and a half months out of this record?

A Oh, I wouldn't like to say right offhand without—some investigation ought to be around here somewhere.

Q Well, did you get that from the files, Mr. Hean?
A I am just looking.

ATTORNEY GENERAL McBRIDE: From the official testimony, page 91.

BY MR. KOHN:

Q Does that show that these accomplices were let into this thing by Kaufman? He made all the arrangements and gave them the key to the garage and everything else?

REPRESENTATIVE LOPRESTI: That is another question. Let's answer the other one first. Let's get the answer to the other one first.

THE WITNESS: It is in the record.

SENATOR YOSKO: What does the record say? I don't know what is in there.

THE WITNESS: The record says, "The two thieves"—

CHAIRMAN TOMPKINS: Now who is speaking; let's first get that.

THE WITNESS: Mr. Wolford said the two thieves received a sentence of from four to eight months in the Erie County jail and Mr. Kaufman was sentenced to serve one and a half to three years as the junk dealer that had received the goods that they had stolen.

BY MR. KOHN:

Q Do you know of any member of the Board who had signed that commutation ever expressing himself as not caring what the accomplices had got but would consider the situation as it applied to the applicant only?
A You mean in the executive session?
Q In the hearings at the executive session?
A Any members of the Board—they must have but which one I would not know.

Q I note quite a few cases in which the reasoning was because the accomplices might have gotten less they were going to cut the sentence down. Is that a policy of the Board?
A No; oh, no.

Q Did any members of the Board ever express themselves against considering what accomplices got and considering the case solely on the merit of the application?

A I wouldn't go so far as to say yes or go so far as to say no. The whole case is considered by the Board in executive session, Mr. Kohn.

Q What I am trying to ascertain is why so many of the commutations of the Board refer to the fact that accomplices might have gotten lesser time and were let out as their reasoning in cases for commutation and in a case where a man was the ringleader or prime mover in a case.

A I could not give you a clear-cut answer to that. I know there is no policy.

Q No policy. Wouldn't you say it was a policy to consider that?
A No, I would not say that. I would say rather that the Board as a Board of mercy considers all facts that would bear upon the problem.

Q Why then is it used so often?

SENATOR YOSKO: Mr. Hean and the members of the Board are here and anything that is applicable to any conclusions arrived at in connection with the commutation, let's call the Board members.

MR. KOHN: The Board did not write this.

SENATOR YOSKO: Well, that is the Board's order.

MR. KOHN: They only approved it and I am asking him why he wrote it.

SENATOR YOSKO: As I just told Mr. Tompkins, Supreme Court Justices have law clerks that write their opinion or help to write them; that when they hand down that opinion it is the opinion of the judge not the person that may have done the research on it and gotten the language together and the same thing applies here. The members of the Board are back here. Why ask the clerk for conclusions that might be arrived at by the Board members?

MR. KOHN: I am asking him his reasons for writing—

SENATOR YOSKO: Well, he does not need any reasons.

BY CHAIRMAN TOMPKINS:

Q This Secretary, as I understand it, writes these reasons based upon a correlation of the opinions of the Board and I have no doubt he interspersed some of his own opinions based upon the facts in the case from the record in the files and the Board then will approve. These are all written up and submitted to the Board for approval, are they not?

A That is correct.

Q And then the language which meets with their approval then they sign it?

A That is correct.

Q And you correlate the facts pretty well from their discussion and from the records, is that right?

A That is correct.

REPRESENTATIVE LOPRESTI: Mr. Chairman, I would like to know from our counsel just what is improper about considering the sentence given to accomplices when the crime involved is one which couldn't happen without accomplices? Now, what is wrong with the Board considering them? The crime could not have happened without accomplices.

MR. KOHN: There is not a thing improper about it, Mr. Lopresti. The only thing improper about it is this that the meager facts which appear on the record in regard to accomplices,—When you have a complete record here on this particular applicant and the meager facts that accompany that applicant, to base anything on that is a dangerous proposition without reading the entire record. And besides that, Attorney General Cohen in the minutes of April, 1955, April 21, 1955, made this statement and I am questioning him as to why he approved this thing.

"In the short time I have been on the Board of Pardons, I have tried to disabuse myself from the so-called comparative justice aspect of the situation because it seems as though it does as much harm . . . as it does good. We find individuals who are paroled and on the basis of the parole, the accomplices come in and ask for a parole . . . for circumstances that had nothing to do with the basis of the crime, but for other consideration that had been taken into account by the previous Board."

The only point I am interested in is the aspects of this case and the aspects of what happened to the assumptions by the individuals.

REPRESENTATIVE LOPRESTI: All right, you will notice in that statement you say circumstances have nothing to do with the crime, but here we are particularly involved with a crime which could not have happened without accomplices.

MR. KOHN: That's right, nor without a fence either.

REPRESENTATIVE LOPRESTI: It couldn't have happened without the accomplices, could it? He could not have received—

MR. KOHN: This case had accomplices, too.

REPRESENTATIVE LOPRESTI: He could not have been guilty of receiving stolen goods unless there was an accomplice, and I think it perfectly proper for this Board to consider, along with the other facts, the sentence that the accomplices received.

MR. KOHN: I am not disputing that. I agree with you.

REPRESENTATIVE LOPRESTI: Well, you are attempting to make something of it.

MR. KOHN: I am asking him why in so many cases I have read, that that same reasoning is given. Is that a policy of the Board?

SENATOR YOSKO: Let's ask the Board that.

MR. KOHN: Why can't I ask him, he wrote it?

CHAIRMAN TOMPKINS: Well, I think, too, when yo come into a question of accomplices in a matter of this kind, this man could, and I believe the district attorney stated, had been—he surmised he had been operating in this field very generally and it just happened in this particular case where he was tripped up. Now, the whole facts were before the court which they took into consideration at the time of imposing a sentence and that, therefore, he may not have considered only the facts in the particular case. There may have been a lot of other background in this man's operations that the Board based their considerations.

REPRESENTATIVE LOPRESTI: That is right.

CHAIRMAN TOMPKINS: Maybe he never was arrested before but he may have been operating a long time and they were trying to get him, too, and finally they caught him.

REPRESENTATIVE LOPRESTI: That is right and the Board should consider those facts, too. I did not say that they shouldn't; they should consider all of them.

MR. KOHN: That is all. You may question him, gentlemen.

CHAIRMAN TOMPKINS: Senator Yosko, Senator Scott, Mr. McBride?

ATTORNEY GENERAL McBRIDE: Yes. Now, let's return to this alleged conference between Mr. Prosser and Attorney General Cohen. That is contained in the letter dated what?

CHAIRMAN TOMPKINS: I believe that was Mr. Hean's letter to the Board where—

MR. KOHN: No.

CHAIRMAN TOMPKINS: Harry Rook's letter.

MR. KOHN: Mr. Chairman, I would like to move the admission of those letters which were read on the record.

CHAIRMAN TOMPKINS: Let's have them marked up. I wish we could follow the practice of marking these before we use them and then we won't have this confusion when we are looking for them.

ATTORNEY GENERAL McBRIDE: Do you want to do that now?

CHAIRMAN TOMPKINS: Let's mark them so that we can refer to them as exhibit numbers, please.

MR. KOHN: Here is one letter of August 30, 1956, from Mr. Hean to all the Board members. Will you mark that please?

> Memorandum from Frank R. Hean, Secretary Board of Pardons, to All Board Members under date of August 30, 1956, produced, marked for identification and received in evidence as Committee as Committee Exhibit No. 12. NPK 3-6-57.

Mr. KOHN: Here is one from Mr. Harry Rook to Honorable Roy E. Furman. Will you mark that please?

> Letter from Harry Rook, Treasurer, The Kane Democratic Club to Honorable Roy E. Furman under date of August 2, 1956, produced, marked for identification and received in evidence as Committee Exhibit No. 13. NPK 3-6-57

MR. KOHN: Here is a note from Mr. Furman to Mr. Hean, dated August 10, 1956. Mark that, please.

Memorandum from Roy E. Furman, Lieutenant Governor, to Frank R. Hean, Secretary, Board of Pardons, under date of August 10, 1956, produced, marked for identification and received in evidence as Committee Exhibit No. 14. NPK 3-6-57

MR. KOHN: Here is a letter dated May 29, 1956, from Rabbi Aaron Decter, and also an accompanying letter of June 11, 1956, from Mr. Furman to Rabbi Decter. Will you mark that?

Letter from Rabbi Aaron Decter of Philadelphia to Honorable Roy E. Furman, Lieutenant Governor, under date of May 29, 1956, and accompanying reply of Roy E. Furman to Rabbi Aaron Decter under date of June 11, 1956, produced, marked for identification and received in evidence as Committee Exhibit No. 15. NPK 3-6-57

MR. KOHN: Also, another letter dated June 4, 1956, from Rabbi Shoulson—S-h-o-u-l-s-o-n—to Mr. Frank Hean and answer by him dated June 7, 1956. Mark that for the record.

Letter from Rabbi Abraham B. Shoulson of Erie, Pennsylvania, to Mr. Frank Hean, under date of June 4, 1956, and accompanying reply to Frank R. Hean to Rabbi Abraham Shoulson under date of June 7, 1956, produced, marked for identification and received in evidence as Committee Exhibit No. 16. NPK 3-6-57

MR. KOHN: Here is a letter dated June 1, 1956, by Rabbi Aaron Decter to Frank Hean, Secretary of the Pardons Board, and a reply by him dated June 7, 1956. Mark that, please.

Letter from Rabbi Aaron Decter of Philadelphia to Frank Hean, under date of June 1, 1956, and accompanying reply of Frank R. Hean to Rabbi Aaron Decter under date of June 7, 1956, produced, marked for identification and received in evidence as Committee Exhibit No. 17. NPK 3-6-57

MR. KOHN: Here is a letter dated—With the permission of the Committee, I would like to put on record the letter of Judge Elmer L. Evans, dated October 14, 1955, which I don't think has been read. May I read that?

CHAIRMAN TOMPKINS: Will you get that number?

Letter from President Judge Elmer L. Evans to the Board of Pardons under date of Ocotber 14, 1955, produced, marked for identification and received in evidence as Committee Exhibit No. 18. NPK 3-6-57

MR. KOHN: Board of Pardons, Re Ben Kaufman, dated October 14, 1955:

"Gentlemen:

"I have a copy of the application of Ben Kauffman for commutation of maximum sentence. In the first place, this application is rather unusual in that there is an attempt to appeal the matter to the Supreme Court of the United States. After conviction here, his sentence was sustained by the Superior and Supreme Courts of Pennsylvania. In paragraph 17 he claims innocence, but I do not conceive that as possible.

"Two young men at a plastic plant were caught and pleaded guilty to removing new plastic from the plant and selling it. They are now serving sentences, and in their statements and at time of trial stated that Ben Kauffman accosted one of them concerning old plastic which he would like to buy. This in itself is unusual because an ordinary plant employee would not have old plastic to sell. Later they contacted him and said new plastic was available, and he gave them directions to a garage and gave them a key. This garage was some distance from his place of business as a junk dealer. When the boys told the officers, they immediately went to Kauffman, who denied having the key but later gave it to them. They went to these premises and found a lot of loose new plastic similar in type to that stolen. The defendant did not take the stand, nor did he offer any defense whatever. Both he and his attorney stated in court that his sentence was reasonable, and I am now inclined to believe it was too light. I oppose very strongly any consideration of his application for clemency.

"Very truly yours,

/s/ "Elmer L. Evans."

REPRESENTATIVE BELL: Mr. Kohn, do we have in the record or in any of those papers the age of these boys?

MR KOHN: That is the thing I was pointing out, Mr. Bell. There is very meager evidence on the accomplices because that record does not accompany his application. The only thing you can get there, you see, would be the statement of the parole officer of the statement of the applicant in the application.

CHAIRMAN TOMPKINS: Is there anything in the parole officer's report on that?

MR. KOHN: On the boys?

CHAIRMAN TOMPKINS: Let's see that once.

REPRESENTATIVE BELL: The judge does call them boys, does he not?

ATTORNEY GENERAL McBRIDE: They were not sent to a juvenile institution. They were sent to the workhouse.

REPRESENTATIVE BELL: That would make them over eighteen, would it not?

ATTORNEY GENERAL McBRIDE: Yes.

CHAIRMAN TOMPKINS: The report does not indicate the age of the boy either or the age of the accomplices.

ATTORNEY GENERAL McBRIDE: Who is it that speaks of them as boys?

CHAIRMAN TOMPKINS: Judge Evans speaks of them as boys in his letter.

FURTHER RECROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Now, Mr. Hean, is there anything in the folder anywhere indicating that Prosser or anybody else talked to any member of the Pardons Board about the merits of the case?

A There is nothing in the record speaking of the merits of the case.

Q Is it true that in the summer when there are no hearings or executive sessions scheduled this method of sending around to the different offices for signature is usually employed?

A That is correct.

Q Is that a time honored method?

A A time honored method.

Q And is it a fact that the letters which refer either to a talk with Mr. Cohen or a talk with Mr. Furman had to do only with the question of when the case could be heard?

A Yes, the letters.

Q I mean the letters.

A I said the letters, the contents of the letters.

MR. KOHN: The letter speaks for itself.

ATTORNEY GENERAL McBRIDE: I know, but speaking for itself, that is what it does show. Let's get the letter.

MR. KOHN: I did not say anything, go ahead.

BY CHAIRMAN TOMPKINS:

Q You were not present during any of these alleged conversations with Mr. Prosser, Lieutenant Governor Furman—

A Not with Mr. Cohen, Lieutenant Governor Furman or anyone else.

BY ATTORNEY GENERAL McBRIDE:

Q Does not this letter of August 2, 1956 referring to the Kane Democratic Club and signed Harry contain these words: I am not going to read the whole thing again.

"I appeal to you to see what can be done to get him scheduled."

A That is what it states.

MR. KOHN: That is not referring to Myron Prosser. You are not reading that right either.

ATTORNEY GENERAL McBRIDE: Well, then—

MR. KOHN: You have to read the whole thing.

ATTORNEY GENERAL McBRIDE: Well, then I will read the whole thing. I will read the whole paragraph. You don't think this is referring to Myron Prosser?

MR. KOHN: According to Senator Yosko, you have to read the whole letter.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, it has been suggested that this does not refer to Myron Prosser.

MR. KOHN: I say it does, but the latter part does not refer to Myron Prosser. That is what Rook is saying.

ATTORNEY GENERAL McBRIDE: I will read the whole paragraph so that there will be no difficulty:

"Myron Prosser of Erie talked with Herb Cohen for approximately a half an hour two or three weeks ago in this connection and Herb promised to see what could be done to bring up Benny's case in the September hearings. In the name of justice and in furtherance of a project pointed towards Ben's deliverance from economic bondage and the opportunity to relive an honorable and decent life, I appeal to you to see what can be done to get him scheduled."

BY ATTORNEY GENERAL McBRIDE:

Q Now, I say, is it not a fact, Mr. Hean, that this letter on its facl speaks only of the converation with Mr. Cohen as referring to getting the hearing scheduled in September and the letter to Mr. Furman, this letter I have just read, also refers to getting the case scheduled?

A That is the content of the letter.

Q Do you know directly or indirectly from any source whatever that the merits of this case were discussed by these men with any member of the Board?

A I would not know. I would not know.

Q Did you ever hear that it did?

A I never did.

Q That such a conversation took place as to the merits?

A I never heard that it did.

SENATOR YOSKO: Mr. McBride, Mr. Kohn, Mr. Cohen volunteered by letter to the Committee that he would come here and testify to any matters that came before the Board while he was a member and we can get that data from him if and when he appears.

ATTORNEY GENERAL McBRIDE: He said, in effect, wild horses couldn't keep him away.

I think that is about all, Mr. Hean.

THE WITNESS: Thank you.

FURTHER REDIRECT EXAMINATION

BY CHAIRMAN TOMPKINS:

Q There is just one question I wanted to ask Mr. Kohn I think you stated during the questioning by Mr. Kohn that Harry Rook had been in your office and you had talked this matter over with him about a half an hour.

A I said Harry Jones.

Q Oh, Harry Jones?

A Yes.

Q Now, who is Harry Jones?

A Harry Jones lives in Kane likewise. I have known him for twenty years and he was evidently interested in this Kaufman case and asked me about what is the usual method of getting rehearings and reconsiderations, the procedure. Whether Mr. Harry Jones was personally acquainted over a period of time with Mr. Kaufman. I would not know, but he did know of him.

Q Did Mr. Harry Jones tell you why he was inquiring of you or who had asked him to inquire of you?

A No, he did not reveal the reason why he saw me when he visited Harrisburg. He only came down on a procedural question.

Q Did you make any suggestion to him that perhaps if the letter were written in it might be a basis for consideration?

A I have no recollection of specifically suggesting a letter, what it should contain and things of that sort. I may have said that a letter requesting a rehearing or a reconsideration is the proper way to bring it to the attention of the Board.

Q Now, do you know whether or not either Jones or Rook are related to Kaufman in any way?

A I do not know. That was news to me when I heard that statement here at the hearing.

FURTHER RECROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Do you frequently get letters from relatives who try to get their relatives out of jail?

A Very often.

CHAIRMAN TOMPKINS: We don't know whether they are relatives or not.

ATTORNEY GENERAL McBRIDE: No, but, Mr. Chairman, I wondered if anything turned on it. I hope if I were in jail that my relatives would try and get me out.

CHAIRMAN TOMPKINS: I am trying to get the motivation why somebody in Kane, a considerable distance away from Erie, should be interesting themselves in a case in Erie.

ATTORNEY GENERAL McBRIDE: They say it is a matter of justice.

BY ATTORNEY GENERAL McBRIDE:

Q Now, I want to ask just one more question. The Board does consider the time spent as a factor in considering whether to grant rehearings, don't they?

A Oh, yes.

Q Both judge, district attorney, and Pardons Board members sometimes take the position that a petition is premature?

A That is correct.

Q And then upon a subsequent hearing, decide to grant it because a man has spent more time in jail?

A That is correct.

Q This man in this instance spent more time in jail, did he not, from the first time that he was refused until he was ultimately commuted?

A He certainly did.

Q And such matters are considered as being something new in the case, are they not?

A They always are, always are; the time spent in jail.

MR. KOHN: All these facts set forth—

BY ATTORNEY GENERAL McBRIDE:

Q I was just going to say this one thing. On this question of protestation of innocence, is it or is it not a fact, Mr. Hean, that the charge of receiving stolen goods, involving as it does not merely the receipt of goods which are in fact stolen, but with knowledge at the time of receiving that they have been stolen? It requires that mental element?

A It requires knowledge that the man accepting the goods knows that it was illegally acquired by the donor.

Q And where a man protests his innocence it is usually on the question of not whether he received but of whether he had that mental element of knowing at the time that it was stolen?

A That is correct.

Q That is the usual factor—

A That is the usual factor in receiving stolen goods, sure.

FURTHER REDIRECT EXAMINATION

BY MR. KOHN:

Q That wouldn't be a factor where you ask a guy to go steal them, would it?

A No.

BY SENATOR SCOTT:

Q Was this case tried by a jury?

A I believe so. I can tell you in a minute.

ATTORNEY GENERAL McBRIDE: The defendant did not add any purjury to whatever else he did. He did not take the stand and try to lie out of it.

BY MR. KOHN:

Q That isn't a factor where a man tells when he says in the statement he gave to the police, where he tells them to go get the stuff. That isn't a factor there is it? It couldn't be.

A He did not tell them to go get it. I understood the accomplices told—

Q Well, do you have a copy of the testimony before the Supreme Court?

A I don't know whether I have a copy of testimony—yes, I have it.

Q Is it not a fact that that was before the Board, was it not?

A Yes. Whether they read it or not, I would not know.

Q Well, I agree with you on that. Isn't it a fact, Mr. Hean, that all of this, all of these factors and reasons set forth in the new trial—I mean, for rehearing which was filed by Mr. Coughlin, Rabbi Shoulson's letter was read, and Rabbi Decter's was all there when they denied the rehearing?

A Yes, those letters were there.

Q Well, the only new thing that you have is the circulation by Mr. Phelps and Mr. Coughlin and Mr. Jones of the members of the Board and the letter from Kane?

A And the additional time, sure.

Q And the additional time. The Board doesn't grant things just because a man serves sufficient time. They have got to have some additional factors, do they not?

A Well, that is one of the factors, not all of them.

Q Do you know of any cases where the Board has of its own volition reconsidered a case that they feel ought to be reheard because a man served more time?

A Right offhand I could not answer that question, but I presume we could find such cases if you went through—

Q Do you know of any?

A Not offhand.

Q And isn't it up to the applicant to bring it to the attention of the Board that there are new reasons?

A Ninety-nine out of 100 it is the applicant or his relatives or friends or attorney.

Q Well, when it was denied on rehearing or the attorney presented this case for rehearing all those other letters were considered; everything was in there except the additional time?

A And that letter which we had recently from Mr. Harry Rook was a letter which asked for a reconsideration or rehearing, whatever term you choose to call it, of facts which had already been passed upon, but urging the Board to reconsider what they did and they said, "Yes, we think we will," and one of the factors would have been that he had served longer time in the Erie County Jail.

Q And they reduced that from one and half to—

A To one.
Q To one?
A Yes, sir.
Q Thirty-three and one-third per cent.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, could you tell me, according to your recollection, did you receive the letter from Harry Rook after the time that Harry Jones was into your office to see you?

A I cannot give you that, my recollection, except my recollection that Harry came in, who I had not seen for a long while, and he was interested in that and we chatted on many, many subjects and probably spent a half an hour with me. At that time, I have a recollection that he brought up the Kaufman case, how could the Board hear it, and I went along with this idea of rehearing and reconsideration.

Q Well, do you recall whether or not it was after that conversation with Harry Jones that you received that letter from Harry Rook?

A I cannot say definitely. I cannot give you a pin point on it, Mr. Chairman.

BY REPRESENTATIVE BELL:

Q Mr. Hean, this gentleman Harry Jones, has he ever been active in Democrat political circles?

A Yes.

Q What position has he held?

A He was active here in Dauphin County years ago and that is where I come to know him and he has now moved up to Kane and what he is doing up there, offhand I have forgotten. But, he was active here and lived here in Dauphin County back in the late 1930's.

Q Well, was he what you would call small fry or was he a borough leader or—

A No, he was just active in the party and took a deep interest in it.

SENATOR YOSKO: Small fry.

THE WITNESS: They count on election day.

ATTORNEY GENERAL McBRIDE: God, I love the small fry on election day.

CHAIRMAN TOMPKINS: General, do you have any further questions of the witness?

ATTORNEY GENERAL McBRIDE: No.

CHAIRMAN TOMPKINS: These hearings will now be recessed until Wednesday, March 13, 1956, at 9:30 a.m.

(Whereupon, the hearing was recessed at 4:45 p.m.)

* * * * *

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing on the above cause before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and that this copy is a correct transcript of the same.

NORMA P. KIRKPATRICK.

Reported by:

Miss Norma P. Kirkpatrick
307 North Second Street
Wormleysburg, Pennsylvania

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

At HARRISBURG, PENNSYLVANIA

Date MARCH 13, 1957

VOLUME V

PATRICIA L. SAYER
1625 Green Street
Harrisburg, Penna.

CEdar 2-2832

INDEX

Committee's Witnesses	Direct	Cross	Redirect	Recross
Frank R. Hean (Recalled)	716	768	778	
Burton Randolph Laub	787			
Elmer L. Evans	858			
Arthur J. Gardner	891	895		
Harold J. Sullivan (Recalled)	932			

EXHIBITS

Committee	Identified and Received
Exhibit No. 19— Letter to David S. Kohn dated February 13, 1957	715
Exhibit No. 20— Letter to Board of Pardons dated May 1, 1952	724
Exhibit No. 21— Letter to Board of Pardons dated August 22, 1955	724
Exhibit No. 22— Group of letters read	748

BEFORE

JOINT LEGISLATIVE COMMITTEE

TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a.m., Wednesday,

March 13, 1957

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.

SENATOR ROBERT D. FLEMING.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania. For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania. For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania. For—Committee (Assisting Counsel).

CHAIRMAN TOMPKINS: Our time schedule indicated today that certain of our witnesses cannot be present until later in the morning. For that reason, we had another case prepared for presentation to this Committee, pending the arrival of those witnesses. We see that at least the witnesses subpoenaed by this Committee are present here in the room at this time. We understand that their time schedule is such that we can proceed with the order of the Committee as we had planned it, without first calling these witnesses.

This case we propose to call has no relation to any particular county but has relation to some of the matters which this Committee is charged with investigating, and, therefore, when we finish with this we will go back into the Erie cases and complete them so far as the Committee is concerned, and then give the gentleman whatever opportunity he has to present any matters in connection with the Erie cases.

ATTORNEY GENERAL McBRIDE: May I ask which case it is? We received no notice. Under our understanding it was arranged that when the Committee or counsel decided to take up a case we would be given notice so that we could prepare whatever information we would have that would be helpful.

CHAIRMAN TOMPKINS: If there is any matter the General would like to put in he will be given an opportunity.

ATTORNEY GENERAL McBRIDE: But I understand we will strive, as far as possible, to keep our agreement and understanding that we will get notice so that we can review the files also, and we can add whatever we think is proper and which might help the Committee?

REPRESENTATIVE LOPRESTI: Are the minority members to be kept in the dark as to matters of procedure? It seems last week, the week before, the activities and time table of this Committee were more or less directed by the Bench of Delaware County, by a man who in my opinion is more political than judicial. So we adjourned our Delaware County cases so that particular gentleman can once again take advantage of a grand jury to make a speech?

CHAIRMAN TOMPKINS: We have no Delaware County cases this morning, Mr. Lopresti, and these are matters our counsel have developed. I don't know as any of the other members of the Committee—

REPRESENTATIVE LOPRESTI: I think when a time schedule has been changed for something—this is the second week in a row that the minority members came in Committee expecting one thing and finding out they were doing something else. I think it is only fair to tell us what is going on.

REPRESENTATIVE BELL: As a member of the majority side I am as much in the dark as Mr. Lopresti, but I have confidence in the Chairman and counsel.

Secondly, with respect to Mr. Lopresti's remarks on the judges of Delaware County, whether it is political or not is a matter of personal opinion. Insofar as this matter has been brought here, my reaction is that the judges of Delaware County have rendered a great public service because they have come up here without fear, said what they knew to be fact, and made very fine recommendations.

REPRESENTATIVE LOPRESTI: But the point is, Mr. Chairman, that we are dealing with the District Attorney of Delaware County, and then in the middle of his testimony he was removed to allow the judges to appear, and then he was not called back, and then Delaware County cases were scheduled for some other time in the future; in the meantime that gentleman has made another speech to a grand jury, which in my opinion is very inappropriate for a member of the court to criticize another independent constitutional body before a grand jury which can do nothing more about it. I think it is nothing more than political.

CHAIRMAN TOMPKINS: We are not discussing Delaware County cases this morning.

REPRESENTATIVE LOPRESTI: We are discussing the principle that the minority members should know what this Committee is doing.

REPRESENTATIVE BELL: I should be entitled to answer Mr. Lopresti. I again say I don't know what case it is that is coming up except what I have read in the newspapers, unless that is somebody that is doing some pretty good guessing. But any judge in this Commonwealth has a right to charge any grand jury with anything that he thinks is offensive to the public welfare, and the actions of Judge Bretherick and his remarks to the grand jury of Delaware County last week are entirely within his right, and even if he were a member of the other Party, a Democrat, I would commend him.

REPRESENTATIVE LOPRESTI: I want to say if the other members of the majority like to continue in the dark, that is their business. I as one member of the minority do not want to continue in the dark and would like to have information.

SENATOR YOSKO: I just want to make a little statement, Mr. Chairman.

It was my understanding that this morning Attorney General McBride would present two or three witnesses to finish up the Erie County cases, and I think we even asked him at the last meeting at an executive session how long it would take, and think you said it would take 15 or 20 minutes. Then we were to go on with another case that I understood was a Bucks County case. Why

that procedure has been changed I don't know, but so far as I am concerned, I would like to be informed of the cases that have been selected, and our schedule for hearing, and I will tell you why. There are a lot of inquiries that come to me from all sources and they say, "What is the schedule for tomorrow?" or the next day. I have to keep saying, "I don't know." It makes it look like we are a bunch of dubs here, we don't know what's going on.

I think as a matter of just good practice, that every member of the Committee ought to be told what case has been selected. I have got some cases that I want to suggest for investigation, but I think we ought to be informed as to what cases are selected so that if anybody does ask us any questions, we don't have to act like we are in the dark on the thing. I think it will create better feeling all around.

CHAIRMAN TOMPKINS: Very well. We will keep that in mind. That will necessitate an executive hearing as to which I hope the members will come when they are called.

Very well, Mr. Kohn, proceed.

MR. KOHN: Mr. Chairman, I would like to finish up one matter here that was injected into these hearings—I am sorry it was.

Attorney General McBride and Mr. Hean brought to the attention of this Board at the last hearing a case in which I was involved, namely, the case of Francis Bowman Kennedy. It is the only case I have ever had before the Pardons Board for commutation in my 24 years of practice. It was turned down three times, and I have no objection to the action of the Board, I wanted to make that clear. I mean, they have discretion—and I am not complaining about it. I am sorry it was injected into the matter.

However, now that it has been injected I would like to make that file complete. I have a letter here from my client dated February 13, 1957, which I think should go into the record. It is addressed to David Kohn, and reads:

"Dear sir:

Would you be so kind to send to me all my papers that you have that would be of any importance to me and also all of papers that I have to have to file for another chance to see if I can get him a liency in sentence. I am going to try Attorney O'Leary. He is a big wheel in the Democratic party here in Blair County. He is the lawyer who had the case when I came to you. I want you to know I ain't doing this because I do not think you wasn't fair with us. It just that to satisfy my mind to see if it is the party or not, which I think it has a lot of bearing. Or would you prefer me to come down to see you in person if you do it will be okay with me for I have not much to do and all day to do it. I think maybe we will try it in September this year if everything goes okay. So again if you will mail all my papers you have or anything that you figure will be okay with me so yours truly,

Bowman F. Kennedy,
Box 112 R. D. 1
East Freedom, Pa."

SENATOR YOSKO: Mr. Kohn, what does that letter purport to convey? What is the reason for reading it?

MR. KOHN: The reason for reading it is that evidently this man fired me because he thought a big wheel in the Democratic party could do him more good than I could.

SENATOR YOSKO: That's just that fellow's conclusion.

MR. KOHN: I am not saying it isn't. I saw no reason to bring the case in in the first place.

SENATOR YOSKO: Is this fellow a prisoner?

MR. KOHN: No; this fellow isn't a prisoner. This is his father. This fellow never had a criminal record.

SENATOR YOSKO: Do you say now that an attorney who happens to hold a Party position, either Democratic or Republican Party, should bar himself from appearing before the Pardons Board on applications for commutation or pardon?

MR. KOHN: I didn't understand you sir.

SENATOR YOSKO: Are you saying that an attorney who happens to have a Party title with either the Democratic or Republican Party should bar himself from appearing before the Pardons Board?

MR. KOHN: No. I would be foolish to say that. I have appeared, and I know a lot of other people—

SENATOR YOSKO: All right. This fellow here came to the conclusion that because his attorney happened to be an officer, if that's what he was, in the Democratic Party, that there is some political skullduggery involved. That's a conclusion that he arrived at.

MR. KOHN: I don't know what conclusion he arrived at. I know this, I didn't bring the case in, it was brought in by the opposition, either to embarrass me or to do something else, and I think the file ought to be complete.

SENATOR YOSKO: If that is supposed to be evidence of political influence, you are down the bottom of the barrell, my friend.

REPRESENTATIVE LOPRESTI: Counsel well knows that the purpose for bringing that case in was to clear up a matter of procedure of which counsel pretended to be ignorant.

MR. KOHN: Why pick on my case?

REPRESENTATIVE LOPRESTI: Because counsel presumed to be ignorant of that procedure when he himself used it.

MR. KOHN: I am not ignorant about it at all, Mr. McBride so knows. I know how to file a petition for re-hearing, and I know how it should be done, and I filed it the way it should be done.

REPRESENTATIVE LOPRESTI: But in your statement you indicated there was a practice you didn't know anything about.

CHAIRMAN TOMPKINS: We can't bring out matters of fact for the consideration of this Committee unless matters of this kind are raised. Identify the letter and put it in the record and let the letter speak for itself.

Letter dated February 13, 1957, addressed to David S. Kohn, signed Bowman F. Kennedy, marked for identification and received in evidence as Committee Exhibit No. 19. VPV 3-13-57

ATTORNEY GENERAL McBRIDE: May I make one non-controversial statement? The question of Mr. Kohn's case before the Pardons Board had nothing to do with

its merits. There wasn't the slightest suggestion that Mr. Kohn or anyone else had attempted to use influence. As has been pointed out, it was a question of what was the procedure upon re-hearing, whether they would accept the letter from a lawyer who would state facts; whether they were new or not is a different question. It was pointed out Mr. Kohn was making a point of what he deemed to be violations of the rules, yet had followed the same practice that he was purporting to condemn. Now, that isn't condemning Mr. Kohn. It is presenting a case which shows that he himself had followed that practice.

CHAIRMAN TOMPKINS: We'll let the testimony speak for itself, General.

FRANK R. HEAN, previously sworn, recalled:

DIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Hean, I call your attention to Application No. A-1428 in the case of Philip John Mollica, and ask you when that first application was filed.

A It was received by the Board of Pardons on the 23rd day of May, 1955.

Q Previous to that time had there been two other applications, one in May of 1952 and one in November of 1954?

A That would so indicate.

Q And this man was charged with murder, correct?

A Correct.

Q He received a light sentence?

A That's correct.

Q The judge was Vincent Carroll, also Judges Smith and Sloane?

A That's correct.

Q The assistant district attorney of Philadelphia was Vincent P. McDevitt?

A That's right.

Q Thomas J. Minnick was his defense counsel?

A That's correct—when I say that is correct, that's what appears on the application.

Q That's what appears on the application, that's right. In previous two sessions in 1952 and 1954, this application for commutation of sentence was denied; is that right?

A That's right.

CHAIRMAN TOMPKINS: Well now, is there a second application, Mr. Kohn?

MR. KOHN: The first application was an application for granting of pardon.

CHAIRMAN TOMPKINS: And that was when?

MR. KOHN: That, sir, was in May Sessions of 1952, and he was sentenced to life imprisonment on April 7, 1952—or rather, March 22, 1944. He applied in 1952 for pardon and that was denied.

BY MR. KOHN:

Q Is that correct, Mr. Hean?

A That is correct.

Q November Sessions of 1954 he applied for commutation of minimum and maximum, is that correct?

A That's right.

Q Was that denied?

A There is no copy of it here and I would say it was denied.

CHAIRMAN TOMPKINS: Who was counsel in the case?

MR. KOHN: Counsel on the case the first time was Melvin Allan Bank and John Pemberton Jordan, Esquires, St. James Hotel, Philadelphia, $500 counsel fee. Second one was John H. Meade, Esq., 2242 Fidelity-Philadelphia Trust Building, counsel fee $300.

CHAIRMAN TOMPKINS: You have two there, '52 and '54?

MR. KOHN: That's right.

CHAIRMAN TOMPKINS: Is there a third application?

MR. KOHN: Yes.

CHAIRMAN TOMPKINS: When was the third application?

MR. KOHN: The third application was filed on May 24 and was listed for September Sessions 1955 and counsel was G. Fred DiBona, Esq., 1302 Finance Building, Philadelphia 2, Pennsylvania.

The facts of the case are as follows—

CHAIRMAN TOMPKINS: Is that for commutation?

MR. KOHN: Commutation of maximum and minimum.

ATTORNEY GENERAL McBRIDE: Both?

MR. KOHN: That's the way it is listed—no, it just says, "Commute my sentence."

BY MR. KOHN:

Q Is that right?

A That's correct.

Q That's on the application of 1955, "Commute my sentence"?

A That's right.

Q MR. KOHN: The facts he sets forth in 15(a) of the application are as follows:

> "On January 16, 1944, Joseph Donato, the deceased in the matter, approached the petitioner and two other boys and proposed a holdup of a cigar store at 1726 S. 13th Street, Philadelphia. Donato advised the three that there would be a card game in progress and that he had checked and found that there would be 25 to 35 men in there. After the plan was discussed at length, they went to the home of Jesse DiGuiglielmo, one of the four boys involved, and picked up three revolvers.
>
> The men proceeded in petitioner's car to the vicinity of 13th St. and Castle Avenue, the intended hold-up scene. The three defendants remained in the car while Joseph Donato went into the cigar store. He returned and said that everything was in order. They then drove around the corner, parked the car, and proceeded on foot to the store. Donato entered first and the others followed him and forced everyone into the rear room for the purpose of getting the money. At that time Mollica (petitioner) Donato (the decedent) and Malino held the persons at bay with their guns while DiGuglielmo began rounding up the money. At some stage in the proceedings, Joseph Donato, for some unknown reason, left the premises. The other three continued the holdup. Within a few moments, Joseph Donato returned and with his revolver pointed at his com-

panions and hollered, 'Drop your guns, or you'll get hurt.' I turned and saw the gun pointed at me, so I fired again. He fell and later died. I surrendered to the police the next day."

CHAIRMAN TOMPKINS: Was he tried and convicted or did he plead?

MR. KOHN: He pled guilty generally.

ATTORNEY GENERAL McBRIDE: Could we have when?

MR. KOHN: Yes, sir. Evidently around 3-22-44—date of sentence, 3-22-44.

Now, the investigation of the parole agent is as follows:

"Investigation showed that on 1-16-44 applicant and his accomplices met and conspired to hold up a cigar store at 1726 N. 13th Street, where a card game was in progress in the back room. Donato had cased this establishment and made all the plans and he took the position that guns should be used. The applicant then took them to the home of accomplice DiGuglielmo, where he got three guns. They distributed the guns among themselves and got into the applicant's automobile and proceeded to the scene of the proposed crime. When they arrived at this store, applicant, DiGuglielmo and Maleno put handkedchiefs over their faces, while Donato remained outside as the look-out man. The applicant gave all the commands, acting as the ringleader and ordered the players to rise and to put their cash and jewelry and other things on the table. The applicant had these players covered with a gun. Some of the players did not take this hold up too seriously, whereupon the applicant fired one shot into the ceiling to show he meant business. At that moment Donato, the deceased, came running into the store and as he reached the threshold of the back room of the store the applicant fired two shots and killed his co-conspirator. The rest then ran out of the store with the applicant carrying Donato, who he had to abandon on the highway in order to make good his escape. The applicant then met his two other accomplices at Donato's apartment, which had been prearranged in case they were dispersed. The money obtained, $106.00, was divided four ways, one of the accomplices taking Donato's share with the understanding that he would deliver it to him when he saw him."

The parole agent's version is in conflict with the applicant's.

ATTORNEY GENERAL McBRIDE: This seems to be a re-trial of that case. I must register a protest. I am just talking about the merits of the case. I don't think that is within the scope of this Committee's—

CHAIRMAN TOMPKINS: Counsel is trying to give us a background—

MR. KOHN: Senator Yosko asked me to give the facts.

SENATOR YOSKO: I don't see anything wrong in it. If we are going to talk about murder, we can take murder in a lot of ways. I would like to know what the facts are.

CHAIRMAN TOMPKINS: We're not going to try the facts.

ATTORNEY GENERAL McBRIDE: Well, all right, if it's just background.

MR. KOHN: No question of what the Board thinks as far as that goes.

ATTORNEY GENERAL McBRIDE: Okay.

BY MR. KOHN:

Q Mr. Hean, I show you letters dated May 1, 1955,—

MR. KOHN: First I'll ask that the stenographer identify these letters.

Letter from Judge Vincent A. Carroll to Board of Pardons, dated August 22, 1955, Re: Philip John Mollica D-7667, marked for identification as Committee's Exhibit No. 21. VPV 3-13-57.

Letter from Judge Vincent A. Carroll to Board of Pardons, dated May 1, 1952, re: Philip John Mollica D-7667, marked for identification as Committee's Exhibit No. 20. VPV 3-13-57.

BY MR. KOHN:

Q I show you two letters. Identify the one dated August 22, 1955, and tell me who that is from.

A We have a letter here addressed to the Board of Pardons from the Court of Common Pleas No. 2, Philadelphia, signed by Vincent A. Carroll, judge.

Q And we also have another letter here from the same judge dated May 1, 1952, is that correct?

A We have.

MR. KOHN: May I read those letters?

REPRESENTATIVE BELL: Mr. Kohn, would you for the purpose of the record identify the fact that these came from the Pardons Board records?

MR. KOHN: Yes, I think that I did—

CHAIRMAN TOMPKINS: Do all these commutations you intend to read come from the files of the Pardons Board records?

MR. KOHN: Everything I will read comes from the files of the Pardons Board records.

I read first the letter of May 1, 1952, from Judge Carroll, which is Exhibit 20:

"May 1, 1952

In re: PHILIP JOHN MOLLICA
#D-7667
Eastern State Penitentiary

Commonwealth of Pennsylvania
Department of Justice
Board of Pardons
Harrisburg, Pennsylvania.

Attention: Mr. Joseph Nissley, Secretary.

Gentlemen:

Reference is made to your letter of April 23rd in the above matter.

The inmate's version may or may not be true. The dead person was one of the gang who were perpetrating the robbery of a card game in the back room of a cigar store. The fact that Donato, one of those participating, put a gun in the back of Mollica was not a fact before the Court at the hearing on the plea. It is clear that Donato and the petitioner were leaders of the enterprise. It could very well have been that the dead man was going to double cross his confederates by going in with a gun and taking the

money himself, making a pretense of rescuing the victims from the robbers and thereby getting a reward. This technique is not unknown to men of this kind. The factual version which is more credible and the one before the Court is that the decedent was the lookout man, and after a shot had been fired which he undoubtedly heard he came through a narrow corridor, made a noise and the petitioner turned suddenly and, without opportunity to identify him as one of his confederates, fired the fatal shot.

This petitioner was a member of a gang in his own neighborhood and in fact was one of the leaders. He was the only one with a previous record. The circumstances of the case might well have justified capital punishment. The eight years he has served, in view of all the circumstances, and his own record together with his persistence in misrepresenting the actual facts clearly indicate that there is no merit in his petition and that it should be disallowedl.

Very truly yours,

VINCENT A. CARROLL."

I would like now to read to you Exhibit 21 dated August 22, 1955, addressed to the Board of Pardons attention Frank Hean, Secretary:

"Dear Mr. Hean:

Reference is made to your letter of August 17th in the above matter.

In reply thereto will you please refer to my letter of May 1, 1952 which gives my version of the crime and which is still supported by my present recollection. From this it certainly would appear, and I believe it to be the fact, that the applicant's version is not accurate.

In the present application the petitioner presents an entirely new and different point, which is one of law, which in view of the established and recorded facts is entirely without merit, and in any event is not a matter for consideration of the Board of Pardons.

In view of the attitude of the applicant and the fact that he has served only 11 years of a conviction of a first-degree murder, committed in the perpetration of a holdup, it is my judgment that there is little merit in the application.

Very sincerely yours,

VINCENT A. CARROLL."

BY MR. KOHN:

Q Mr. Hean, tell me whether or not the District Attorney also opposed this petition.

A My notes here on my book here says, "Opposed by the District Attorney."

Q I show you from the records the confidential report dated August 17, 1955, from the parole agent assigned to the Board of Pardons for investigation, and I ask you to read from that record under "Reputation of the Applicant" what the report about him is.

A A man by the name of Mr. H. D. Wynkoop reported to us as follows under the paragraph headed, "Reputation of Applicant."

BY CHAIRMAN TOMPKINS:

Q Is this a report which came in on the third application?

A Yes, August 15, 1955.

BY MR. KOHN:

Q Continue.

A "Previously reported as a violent individual with no concept of human life."

Q Now, I refer you, Mr. Hean, to the last application which was filed in this case and which is No. A-1428—is that correct?

A It is our No. 40, on the September 1955 Sessions.

Q No. 40?

A Yes.

Q It was originally listed as—

A That's the Pardon Board.

BY CHAIRMAN TOMPKINS:

Q That was last before the Board when?

A In September of 1955.

Q Previous to that one—

A Oh, 1954 and 1952.

MR. KOHN: That's right, November Sessions 1954.

BY MR. KOHN:

Q Now, had Mr. G. Fred DiBona represented this defendant May 12, 1955?

A Well, I got a letter from Mr. DiBona, or the Board did, "Please place the within matter on the June list. Thank you." We were not able to do that.

Q Did you reply to him on May 13?

A We acknowledged receipt of the application.

Q Read the letter dated May 13 from the Board of Pardons, from you yourself to DiBona.

A Acknowledge receipt of application for the above named which was received by us today. You sent us a check in the sum of $20 and we are returning it herewith because the filing fee is only $15. Kindly forward us a check in that amount. This applicant had a hearing in November, 1954, and therefore under the rules of the Board another application cannot be filed until November, 1955, when one year has expired. Kindly advise whether we should hold this application until November, or return it to you."

Q Well now, evidently he sent you a check for $15, you have an envelope here dated May 20, 1955; is that correct?

A That's right.

Q Did you acknowledge that on May 24?

A. "We acknowledge receipt of your check on May 21. As indicated, it will be necessary to list this application for November 2."

Q So the rules of the Pardons Board are that applications cannot be heard except within yearly periods. This man had filed in 1952 and 1954 and he filed again in 1955 and that wasn't to be heard, according to your statement to him, until November of 1955?

A That's my letter to him, yes.

Q And that was the decision that you had made, you

received his $15 and credited it to the funds of the Commonwealth?

A That's correct.

Q Now, what do your records show as to why this case was listed for September sessions?

A This is the first I heard about it.

Q Do you have anything in your records to show why the case was listed for September of 1955?

A No—only what you see on here. I have nothing here—

Q I don't see anything on there. Will you tell me for the record whether there is anything in the records there or anywhere else in the Board of Pardons which will show why this case was listed for September of 1955?

A Mr. Kohn, without investigating the records, which is a brand new idea here this morning, I couldn't answer your question.

Q Yes, I think you can. Do you have anything in your records that you have outside of the folder itself, which would show why this case was listed specially—

ATTORNEY GENERAL McBRIDE: Mr. Chairman, how could he when—

MR KOHN: I'm trying to find out whether he made a record.

ATTORNEY GENERAL McBRIDE: But I think he should be given an opportunity before answering that to look up his records. The answer may be nothing, but if it is a brand new case as he says, how can he answer the question?

MR. KOHN: It's not a new case to him. He handles it.

MR. McBRIDE. But he handles hundreds.

SENATOR SCOTT: Are the records before him?

MR. KOHN: He has his own records. I have the file records. I am trying to establish whether anything is kept on their records on the official files which would show why this case was specially listed.

SENATOR SCOTT: I think the witness is entitled to take time to look at his records.

MR. KOHN: Oh, sure.

BY MR. KOHN:

Q Do you have anything in there?

A On my records that I have jotted down the day of hearing, I have nothing.

Q What date was the hearing?

A No. 40 was September 14 of 1955.

BY SENATOR SCOTT:

Q That was the date of the hearing?

A Yes, sir. It was the first day of the hearing. Let me check accurately—yes, it was the first day of the hearing, September meeting of the Board.

BY CHAIRMAN TOMPKINS:

Q Is there anything in the notes you have before you making reference as to why this case was heard at that time?

A No, not on these notes.

Q Might you have notes someplace else that would indicate that?

A I may have. I have not inspected them. I wouldn't know.

BY SENATOR YOSKO:

Q Are there any other records you have in your

BY MR. KOHN:

Q These are letters—

A I have not looked at them, I wouldn't know.

Q What I am asking you is, do you have anything in your files, besides these letters which are in the file, that would indicate why this case was specially listed?

A Without looking over my files I couldn't—

Q What about executive session?

A We have a folder on that.

Q Do you have the folder here?

A I do not. You have it.

Q All right (Mr. Kohn hands folder to witness.) Look at the folder. I think that's the folder you told me yesterday you would not have given me.

A Without permission of my counsel.

Q Yesterday was the first time I saw it.

A That's right, because that's the first time you asked for it.

SENATOR YOSKO: Mr. Kohn, that brings us back to the argument we had in the beginning. If everybody is advised of the cases that are coming up, everybody can get prepared.

MR. KOHN: I will take that up in executive session, I think to your satisfaction, Mr. Yosko, we'll leave it go until then. I have a reason that I don't want to discuss here.

SENATOR SCOTT: Mr. Kohn, you have asked the witness a question that has to do with whether there is anything in the file. My suggestion is you give the witness an opportunity to look in the file and then he can answer whether there is, yes or no.

MR. KOHN: All right.

(Witness looks through file.)

THE WITNESS: No, I can find nothing in the minutes that refers to Mollica.

BY MR. KOHN:

Q So there is nothing in the record that you have that would show why this case was advanced in November, as you first stated to his attorney, to September?

A That is correct.

Q That would indicate there is no consideration of any kind that is on the record—

A No consideration.

Q —by the Board?

A I have only this one statement to make, that between July and September the Board is not in executive session, it is on vacation, and it may well have been—although my recollection is not clear—that it was discussed with one or more members of the Board. But I cannot prove that.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, isn't it a standard procedure for you to submit in writing information to the Board and have them initial whether or not there would be a re-hearing?

A That is the general practice, yes, Mr. Tompkins, although sometimes it wasn't.

Q Was there any such letter circulated among the Board in this case?

A According to these notes, and I have not inspected the file here, I don't know. Mr. Kohn can answer that. Was there such a letter circulated, Mr. Kohn?

MR. KOHN: We'll get to that, if I may.

BY MR. KOHN:

Q What I am asking now, if such letter is circulated and considered, would that be in your minutes?

A Not necessarily.

Q There is no record made of it?

A Not necessarily, no, sir.

Q Well, is it done sometimes?

A It is sometimes.

Q What record would you have in your official records of reconsiderations and special listings?

A I have the meeting of the Board in June and—

Q They do take action for special listing, do they not?

A Yes.

Q And give reasons?

A And give reasons. Also for reargument, and also for—

Q For re-hearing?

A —rehearing, and reconsideration.

Q You have nothing of that kind in this case?

A Not in these minutes, no, sir.

Q I show you a letter dated June 10, 1955, addressed to the Board of Pardons from William A. Barrett, Congress of the United States, House of Representatives, Washington, D. C., addressed to the Board of Pardons. Will you read that letter into the record?

A Letter dated June 10 addressed to the Board of Pardons from William A. Barrett, member of Congress: "Gentlemen: In re: Philip Mollica. In answer to your letter to the effect that the above captioned case could not be listed until November 1955 by reason of the fact that the prior application was heard before the Board in November of 1954, may I request respectfully for special consideration to this application and that the matter be listed for the September 1955 meeting. As your records will indicate, the other two persons involved in the crime which resulted in the above imprisonment of the above named applicant have already been released by the Board. It is because of this fact that we feel special consideration may be accorded the above applicant. Signed, William A. Barrett, Member of Congress."

Q Did you know William A. Barrett was a Democratic Representative in Philadelphia?

A I so know. I don't know the man personnally.

Q Democratic leader of the 36th Ward in Philadelphia?

A I didn't know that.

Q And the fact that he was a member of Congress, did that change your attitude on getting a special listing for application which could not be listed except for one year?

A That question you will have to ask the members of the Board.

Q Well, is there anything in the minutes that would indicate that they took up that question—

A Not in the minutes, no, Mr. Kohn.

Q Nothing in the minutes of any kind?

A Nothing in the minutes that I can find right now. First time I saw it. I have not had an opportunity to search.

Q I call your attention to your answer of June 16 to Mr. Barrett. Read that, please.

A My reply to Mr. Barrett's letter dated June 16, "Dear Sir: It will be necessary to bring to the attention of the Board of Pardons to your request for special listing of this application in the September 1955 session. Before we take this step may we suggest that any special reason in addition to the release of the two accomplices be forwarded to us to be included in the request for the special hearing. As soon as that information is received we will present the request to the Board. Signed, Frank R. Hean."

Q You had the application and you had the man's $15 and he was on record with counsel, was he not?

A That's correct.

Q Did you write to counsel at all about Mr. Barrett's intervention in this matter?

A I wouldn't know until I look at the file.

Q I will have you look at it later and I will come back to that question; I will withdraw the question for now.

I show you letter dated July 7, 1955, from Mr. Barrett to yourself and ask you to read that into the record if you will, please.

A This is addressed to Frank R. Hean, Secretary Board of Pardons, dated July 7, 1955, from William A. Barrett, member of Congress. "Dear Mr. Hean: Thank you very much for your letter of June 16 regarding the case of Philip John Mollica. As you will recall, I requested a special listing of this application in the September 1955 session and you advised by return mail that additional information or reasons would be most helpful in making a determination. I do not believe that the petition in behalf of Mollica was presented in its correct light during the hearings before your Board last November. I think the other two defendants presented the problem in a more convincing fashion. While I do not suggest that Mollica should be released merely because the other two persons have been released, I do feel the reason for the release of the other two should prevail in this instance. In order that the other two people involved receive the commutation which they in fact received, it was necessary that the Board be convinced, as they must have been, that the sentence imposed was entirely too severe in contrast with the crime committed. Counsel intends to argue this point to the Board at the first opportunity. I believe, therefore, that this petition, although a new one, is in reality a re-argument of the prior petition. The Board has on numerous occasions granted re-arguments within a matter of a few months, but in this particular case exactly ten months will have expired from the last argument to the present re-argument. In addition to the above-mentioned facts I am most anxious to obtain the release of Mollica at the earliest possible time because of the health of his mother. At the present time it is doubtful if she will ever fully recover. Because of her age she does not expect to live many more years and would like to have her boy home with her. Mollica has not seen his mother for the past 12 years, and she has been unable to visit him because it is extremely difficult for her to travel. Mrs. Mollica has suffered several severe heart attacks, and these delays are causing her great concern. Therefore, May I request that every consideration be given this matter and the

case be scheduled for September 1955 sessions. Thank you, William A. Barrett."

Q I call your attention to letter from yourself to members of the Pardons Board dated July 27, 1955. Will you read that into the record, please? Or maybe I can read it for you?

A All right.

Q This is to All Members of the Board of Pardons, in re: Philip John Mollica, from Mr. Hean, secretary: "United States Representative William A. Barrett has requested a special listing of this application for the September meeting of the Board. I understand that he has written to each member of the Board setting forth his recommendation why he believes this request should be granted. Our records show that the last hearing was in November 1954, and that this applicant has served 11 years 6 months of a life sentence for murder, first degree. In 1954 Judge Carroll was opposed and also Judge Smith was opposed. Kindly indicate your vote below:

Those favoring, four; those opposing, none."

Mr. Hean, I show you Board of Pardons Rule 12, and I ask you to read 12-A into the record.

A Rule 12-A, "All correspondence relating to applications, whether addressed to the Board or to individual members thereof, shall be filed with the Board."

Q Now, you indicate in here, "I understand that Mr. Barrett has written to each member of the Board setting forth his recommendation why he believes this request should be granted." I believe—well, I give you the complete file and ask you whether or not such letters have ever been filed or received by the members of the Board in this case with the secretary of the Board for filing with that file.

A No other letters have been filed except the ones that you see there.

Q None of the members of the Board who received letters from Mr. Barrett have filed them in the file as required by Rule 12-A?

A Probably not, for two reasons. Number one, the letters addressed to the four members of the Board may have been identical to the one I received.

Q You don't know that?

A I don't know.

BY ATTORNEY GENERAL McBRIDE:

Q You don't know they received it?

A I can't prove they received it.

SENATOR YOSKO: And he didn't say in that letter, either, that the letters were written. He said he just understood, which conveys a doubt.

MR. KOHN: If you will let me find out I will try to find out how he understood it. I don't know.

SENATOR BELL: Can we have that section reread?

CHAIRMAN TOMPKINS: You mean of the Rules?

SENATOR BELL: No. Of Mr. Hean's notes.

MR. KOHN: You mean this particular paragraph?

SENATOR BELL: Yes.

MR. KOHN: "United States Representative William A. Barrett has requested a special listing of this application for the September meeting of the Board. I understand that he has written to each member of the Board setting forth his recommendation why he believes this request should be granted."

BY MR. KOHN:

Q Now, you don't know if those were the same letters he sent to you or they had different readings or anything else, do you?

A Someone must have said, "I got a letter from Barrett" and that's why—

Q And that is why you put in that all four received it, each member of the Board?

A Yes, and he had—

Q Did you ever make any request to the Board members to comply with Rule 12-A and make the file complete so that the whole thing could be considered as required by the Board rules that all letters which go to each member of the Board or which go to you have photostatic copies made, including the file that goes to the Governor, so that they may be considered?

A I have no recollection of requesting the Board to file any letters in this case.

BY SENATOR YOSKO:

Q Mr. Hean, was it just your impression—

A It was my impression.

Q Did you know definitely that Mr. Barrett wrote letters to each member of the Board?

A No, I did not.

BY CHAIRMAN TOMPKINS:

Q Why did you make a statement—

A Probably somebody said, "I got a letter from Barrett along the same lines" and I would imagine he wrote to every member of the Board. Nothing serious about it.

BY MR. KOHN:

Q Then the Board voted for granting of a special hearing on this application, did they not?

A They did.

Q Will you read your letter of July 28, 1955, addressed to Mr. Barrett?

A "Dear Sir; This is to advise you that the Board of Pardons has granted the request and is specially listing the application of the above named for hearing at the September 1955 Session. We are today advising the representative, G. Fred DiBona, Esquire."

Q You also wrote a letter, I think, on that same date, July 28, 1955, to Mr. DiBona, telling him of the action of the Board?

A "This is to advise you that the Board of Pardons has granted the request of Honorable William M. Barrett, and is specially listing the application of the above named for hearing at the September 1955 Session. When date has been set you will be advised."

Q You had no communication, then, between May 24 and July 28 with Mr. DiBona, counsel?

A The record would disclose—

Q Look at the record.

A You read every one. It would so indicate between May 24 and July 28, a period of two months, there was no communication in writing between myself and Mr. DiBona.

Q All the communications regarding this case were with Representative Barrett, without knowledge of his attorney as far as you know?

A I don't know that.

Q I mean as far as you know there was nothing communicated to DiBona about Barrett's efforts?

A You are asking me a question I can't answer.

Q I am asking from the record, whether you communicated anything with DiBona about Barrett's intervention in this case.

A No, I did not.

Q I ask you to look at this—

MR. KOHN: Well, first we'll have them identified. Just give this group of letters just read, one exhibit number.

Group of letters hereinabove read were marked for identification as a group, as Committee Exhibit No. 22. VPV 3-13-57.

BY MR. KOHN:

Q Is that the commutation in the case (handing paper to witness)?

A Yes.

Q And Attorney General Kohn was not present?

A That's right.

MR. KOHN: I would like to read into the record the reasons given by the Board for the commutation. Three voting for it are Roy E. Furman, Lieutenant Governor; James A. Finnegan, Secretary of the Commonwealth, and Genevieve Blatt, Secretary of Internal Affairs, signed by Governor Leader approving the recommendation, in which the Board of Pardons recommended that minimum sentence of Philip Mollica convicted of murder in the first degree in Quarter Sessions Court of Philadelphia on March 22, 1944, be commuted from life imprisonment to 10 years, 7 months, expiring on October 22, 1954. So that the Board, in commuting this sentence—although the hearing was held in September of 1955, had it expire as of November 1954.

BY MR. KOHN:

Q Is that right?

A That was probably an error. It should have been 1955.

BY SENATOR YOSKO:

Q When did he get out?

A I don't know when.

Q Are the records there to show when he got out?

A No, I don't have the records as to when he was released.

BY REPRESENTATIVE LOPRESTI:

Q At least he was still in in September of 1955?

A Yes.

BY MR. KOHN:

Q But your commutation here says he will get out October 22, 1954.

A That's what it says. It probably was corrected.

CHAIRMAN TOMPKINS: Would you read the balance of those reasons, Mr. Kohn?

MR. KOHN: Yes:

"Our reasons for making this recommendation are as follows: This applicant is thirty-three years of age, and was sentenced for a crime of murder in the first degree, with life imprisonment effective March 27, 1944, Court of Quarter Sessions and Oyer and Terminer, Philadelphia. The applicant plead guilty to the offense. The crime arose when the applicant together with two accomplices raided a card game and in the course of the robbery the applicant shot one of his accomplices. Two of the accomplices of this offense, Joseph Maleno and Jessie DiGuglielmo, were sentenced to life imprisonment, have already received a commutation of their sentence. During applicant's imprisonment, prison authorities report, that he has shown increased stability and maturity and has demonstrated his good "vocational work and has demonstrated his control over his emotions. The District Attorney is not in favor of this commutation. The board believes that this applicant will not become involved in any further criminal activity. His participation in the offense for which he was sentenced was not that of a ring-leader. At present, his mother is very ill and the release of this young man at this time will help considerably in the support of the family. The board, therefore, recommends that the sentence be commuted."

BY MR. KOHN:

Q Now, isn't it a fact as you read that the parole officer reports he was a ringleader and he had a previous criminal record?

A There was probably a statement made he was not a ringleader.

Q By whom?

A I wouldn't say. I took notes as they rolled along.

Q Did you look at the parole authority's report that he was not only a ringleader but he had been engaged in directing this holdup?

A There was also other statements made and we do not have the file.

Q Whose agent—

A If we followed the Parole Board everytime we would not be a Board of Pardons.

Q There is nothing in here about Judge Carroll also being opposed?

A No, sir.

Q There is nothing in here about his prior criminal record, which I would like to have you read for the benefit of the—

A What I have here is that Mollica, 1941, larceny, released—

Q I will give you the parole officer's report—

A Get the Penitentiary; that's more accurate.

Q All right.

A The Penitentiary on his record has—

Q Just read all of it.

A 1941—

Q First, what are you reading from?

A I am reading from the report of the Eastern State Penitentiary that carries a rather complete record of the criminal activities of any prisoner.

Q Read it, please.

A 1941, Philadelphia, larceny of an automobile, released on bail, no disposition of the case.

1941, received at the Montgomery County prison to await disposition on a charge of violation of the Witkin Firearms Act;

February of 1941, sentence suspended and turned over to the Philadelphia authorities;

Then February 18, about a week later, Philadelphia, larceny and receiving stolen goods, 6 months House of Correction. That goes back to that January 1941 case;

1941, released to Norristown authorities, about 7 months afterwards;

In September of 1941, sentenced to two years probation and to pay costs and six months, in the court of Montgomery County; that was under the Witkins Firearm Act.

1942, Chester, burglary, larceny, receiving stolen goods; found not guilty;

1943, Philadelphia, larceny, receiving stolen goods, sentenced from 6 months to 2 years in the Philadelphia County Prison. That was in April, 1943.

In October of 1943, about six months later, he was paroled.

Q Paroled by the State Board?

A By the State Board. His minimum sentence had expired.

In March of 1944 he was arrested on this charge of murder, which is the matter before us.

That's his criminal record. He was serving life imprisonment.

SENATOR BELL: Mr. Kohn, it is my recollection in the parole officer's report there is something about this man being either rehabilitated or couldn't be rehabilitated. Would you repeat that?

MR. KOHN: That was in the prison report.

SENATOR BELL: Repeat it.

CHAIMAN TOMPKINS: We heard earlier about the man having no regard for human life.

THE WITNESS: That was in the Parole Board. The one that he read with respect to his rehabilitation at Eastern State Penitentiary, that Mr. Kohn read a few minutes ago.

CHAIRMAN TOMPKINS: The parole officer's findings and the prison recommendations, there is considerable variance.

THE WITNESS: Many times. The parole agent doesn't have the facilities of observing the man in the penitentary, while the prison staff do have and they assay the man fairly accurately. They have a great deal of experience.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Hean, how old was the man—

A At the time we had him he was 33.

Q I mean when his first offense was committed what was his age?

A Let's see, I have an application when he was born. He was born September 11, 1922. Then in 1941—he would be about 19 years of age.

BY CHAIRMAN TOMPKINS:

Q About 23 at the time he committed the murder, wasn't he?

A Yes.

BY SENATOR YOSKO:

Q When were his accomplices released?

A I have a record here; Maleno was commuted in September of 1944—correction; September of 1954. DiGuglielmo was commuted by the Board of Pardons in June of 1954.

BY CHAIRMAN TOMPKINS:

Q What were their sentences?

A Life.

Q They were all life?

A Yes.

MR. KOHN: Neither of them shot anybody.

BY SENATOR YOSKO:

Q There were two different Pardons Boards then that acted on all three cases?

A Yes.

SENATOR SCOTT: What did you say, Mr. Kohn?

MR. KOHN: They were accomplices in the holdup. But as to the actual shooting—I mean, the others got pulled into the murder because of the fact that this man lost his head.

SENATOR SCOTT: I see.

REPRESNTATIVE BELL: Would you come to my question? I would like to have a statement as to whether this man was rehabilitated. I think there is one in there that stated he was unsafe to be turned loose.

MR. KOHN: Of course, there is a variation, Mr. Bell, between the Parole Board statement and the psychiatric.

CHAIRMAN TOMPKINS: Read first the Parole Board and then the prison board and we can then get that comparison.

Mr. KOHN: This is by the Penitentiary: "This mate received by this institution in 1944"—

SENATOR SCOTT: What is the date of this report?

MR. KOHN: 9-14-55.

CHAIRMAN TOMPKINS: Read the parole officer's report first. What is the date of it?

MR. KOHN: August 17, 1955.

CHAIRMAN TOMPKINS: What does his report indicate?

MR. KOHN: He says, "Reputation of applicant: previously reported as a violent individual with no concept of human life." He doesn't go into his present because he says he had a parole violation previously, but he has no reason to make any parole plan because he is not to be investigated until commutation is granted.

CHAIRMAN TOMPKINS: What does the prison say?

MR. KOHN: "This inmate received in the institution in 1944 and although he is difficult "adjusting when first received; over the last year both attitude and adjustment has been considered quite favorable. Evidence as to stability has been demonstrated by his good vocation reports and improvements have been demonstrated. He has received favorable reports from the block officers in this institution. Constant improvement and attitude in adjustment has been very evident over the last 9 years. This inmate has sent over $1500 to his family and made numerous donations to various charities."

CHAIRMAN TOMPKINS: You may proceed now.

BY MR. KOHN:

Q I show you the warrant which was issued I think by you, pursuant to this commutation granted by the Board—

A I didn't issue it.

Q Who makes this up?

A I make it up.

Q What did that commute the sentence to?

A That is signed by the Governor. I commuted the prisoner to minimum sentence 10 years 7 months, expiring October 1954, signed by the Governor on the 4th day of October, 1954.

Q That is attested to by Mr. Finnegan?

A That's right.

Q That is an official record?

A That is the official record of the warrant.

Q Does that show commutation a year before the case was heard?

A That's possible. It was in error.

Q All right. I ask you whether or not the Board has ever expressed a policy in regard to when they would consider, outside of other cases, when they would consider applications for commutation in first degree murder cases? Have they ever expressed a policy?

A I just didn't get the import of your question.

Q Does the Board have a policy, or did this Board have a policy in regard to how soon they would consider commutation of a life sentence?

A No, they have never expressed to me, or generally have they expressed, "We leave a man out in ten years, or 20 years"—

Q They never set a policy?

A No, they never set a policy.

Q I call your attention to the case of William Edward Geiger, No. A-2219, March Sessions 1955, and ask you whether or not this Board consisting of Roy E. Furman, James E. Finnegan and Herbert Cohen had not laid down a policy in the granting of a commutation in that case.

A It isn't a policy. You asked whether they laid down a rule. They probably expressed themselves that generally a man should serve a substantial portion, but it is not a rule.

MR. KOHN: In this case there was a commutation in the case of William Edward Geiger, who I think was convicted in Dauphin County on the charge of murder. He received a life sentence. He was a veteran—as I recall, I checked the file, I knew this case personally—and was in bad shape in the Penitentiary. He was released—

SENATOR YOSKO: What do you mean in bad shape?

MR. KOHN: Physically, epileptic. He was released on condition he would be admitted to the Veterans' Administration Hospital in Coatesville and not to be released from the institution until after notification to the Board of Pardons of their intention to release the applicant and the Board had an opportunity to act. The thing I am getting at is the policy laid down by the Board was set forth in this case and applied to the Mollica case.

"This applicant has only served 8 years, 2 months of life imprisonment. The Board herein waives one of its major rules, in that an applicant for commutation of life sentence must serve a substantial portion of the maximum of a second degree sentence before recommending that sentence be commuted"—the maximum.

BY MR. KOHN:

Q That is set forth as a major rule of the Board, isn't it?

A Well, I wrote it and it is an unfortunate expression, and you can accuse me of the error. Don't accuse the Board.

Q The Board approved it as a major policy.

A They approved it.

Q And they read it?

A No, I wouldn't say they approved it as a major policy at all.

Q It says a major policy.

A I say so and it is an unfortunate expression.

Q Did they approve your wording?

A Yes.

Q Did they accept it as theirs when they approved it?

A No.

Q You mean you write these things, the Board signs them and they don't accept it?

A They may not have read it—

Q It may have been their responsibility to read these reasons.

A Yes, it is their responsibility, but—

SENATOR SCOTT: What date was that?

MR. KOHN: March 1955 session.

REPRESENTATIVE BELL: What is the maximum sentence—

MR. KOHN: Twenty years for second degree murder.

THE WITNESS: Ten to 20.

MR. KOHN: Well, he asked about the maximum.

THE WITNESS: I'm sorry.

MR. KOHN: I have no further questions.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, I would like to ask one question. In this case, the Mollica case, it appears that a re-hearing or re-argument was permitted in it short of your rule.

A That's correct.

Q And the Board so treated it as such?

A Yes.

Q Now, this re-hearing was granted as a result of an application that had been filed some time in May, am I correct in that?

A The formal application was filed in May, yes.

Q You returned the filing fee of $20 to Mr. DiBona and he in turn remitted to you the regular fee of $15, did he not?

A That is correct.

Q When you granted a rehearing—or rather, a re-argument in this case, did you return the filing fee to him?

A It wasn't a re-argument; it was a special listing, advancing it by two months, and we considered it as though it had been filed in—to be heard in November, which would have required a $15 fee. By advancing the hearing two months didn't wash out the $15.

Q You certainly have a flexible rule, don't you?

A Common sense.

Q What I am trying to get at is, in one of the Delaware County cases they sent the man the money back and said it's not necessary in this case.

A That's true—

Q I'm wondering why it wasn't sent back in this case.

A When the Board within itself so moves they do not charge an applicant or his representative anything. But here's from the outside source.

CHAIRMAN TOMPKINS: All right.

BY REPRESENTATIVE LOPRESTI:

Q A distinction has been made clear between a rehearing on an application and a special listing?
A That's right.
Q That has been made clear in this hearing?
A I trust so.

Q I think so. Now, is it anything unusual in your opinion for a Congressman to write to many agencies in both Federal and State Governments interceding in behalf of people who are his constituents?
A That is not unusual.
Q It's done pretty regularly?
A I wouldn't know, I am not a Congressman, but I have a suspicion that they are overwhelmed.

Q Have you any recollection of other Congressmen or other officials—
A Yes, other officials have written letters of recommendation. I have no recollection, Mr. Lopresti, of any Congressman writing for a special listing.

Q Do you have a recollection of other public officials writing in behalf of one of their constituents or parents or somebody?
A Very often we do get them from various persons in various branches of the government.

BY REPRESENTATIVE BELL:

Q Mr. Hean, how many times in the last three months have you received letters from Congressmen with respect to cases in front of the Pardons Board?
A I have no recollection within the last three months.
Q Does that mean you received no letters?
A I have no recollection of receiving any. I may have.
Q How many letters have you received from Congressmen in the last month?
A None to my recollection.

Q Was this letter from Congressman Barrett a normal occurrence in the Board's procedure, or was it abnormal?
A I couldn't answer that clearly, because at the time the letter was received from Mr. Barrett, the Board had been organized only, or constituted approximately 6 or 7 months. What has gone before in the activity of the Board in the past 16 years prior thereto I am not familiar.

Q During your year and a half with the Pardons Board how many times have letters been received from Congressmen with respect to matters like this?
A I have letters—now, that's a little difficult to answer your question. I have had three letters from Congressmen on various petitions before the Board.
Q What is the name of those petitions?
A Offhand I can't give them to you. One sticks in my mind, from the Congressman, in which I failed to address him as "Honorable," and I got a telephone call from his secretary.

BY SENATOR SCOTT:

Q Were you chastized for that?
A Well,—

BY REPRESENTATIVE BELL:

Q Do you recall what Congressman it was?
A I wouldn't like to say. You will excuse me.
REPRESENTATIVE BELL: Mr. Chairman, I would like to suggest that the secretary turn over to our counsel the names of the Congressmen, and names of the cases in which he has been contacted. I think that is within the scope of this investigation.

THE WITNESS: Yes, but I can't do it in a few hours. Will you permit me to look over a year and a half to pick out letters from the Congressmen? It will take a little time.

REPRESENTATIVE LOPRESTI: If we are going for a year and a half let's go over five years to see if there are letters from Congressmen in the files. In five years we can probably find a lot of letters.

BY REPRESENTATIVE BELL:

Q May we include the United States Senators?
A We will include the United States Senators. We have not had many, you know.
Q State Senators?
A No State Senators.
CHAIRMAN TOMPKINS: General?

CROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Hean, addressing your attention specifically to the distinction between the statement of the prison staff and the statement of the Parole Board, is it or is it not a fact that the Parole Board was concerned with the man's reputation as of the time of the commission of the crime?
A That is what I understand it to be.

Q Now, tell us what the prison staff, what it is, what it is composed of, as you understand it.

A As I understand it, the prison staff, of course headed by the Warden, includes the Division of Work and Activity, the guard, head of the guards, the head of medical and psychiatrics, the head of the disciplinary group—there are about 6 or 7 in that group they call the prison staff, the heads of the various activities—the man in charge of studies and mental activities, that is, lessons and classes. There are about 6 or 7 that comprise the staff, and they appraise whether or not the man has improved, and give an opinion, that is not always conclusive but it indicates the development of the prisoner during his incarceration.

Q Therefore, would it be correct to say that the prison staff tells you what kind of a man he is after he has been in prison, and at the time he is applying for release?

A That is report as of the time of release, or the time of the application rather, as of the time of the application they give us a report as to the type of man he is.

Q Now, in respect of this case, the Court decided that all three defendants were guilty of the same crim nal offense.
A The record will so indicate, Mr. McBride.

Q That it was murder in the first degree and they all received life imprisonment.

A That's correct.

Q Now, one of the things, as I understand it, that was taken into consideration by this Board was the fact that a previous board had commuted the sentence of both of the other men involved in this so-called first degree murder?

A I believe the recommendations so mention.

Q I show you the folder of the previous Board of Pardons, stating their reasons for commuting Joseph Moleno.

A I have that before me.

Q Will you read that?

CHAIRMAN TOMPKINS: Was he one of the accomplices, General?

ATTORNEY GENERAL McBRIDE: He was one of the accomplices.

BY ATTORNEY GENERAL McBRIDE:

Q Read that.

A This was granted by the Board of June 1955, signed Lloyd N. Wood, G. D. Smith, Attorney General not sitting, William S. Livengood, "This applicant" referring to Joseph Maleno, "is 28 years of age, is now serving a life sentence for what was alleged to have been murder in the first degree. This applicant at the age of 17 years together with two accomplices, was holding up a crap game when the accomplice Donato attempted to hold up gamblers who was shot and killed by his accomplices. This is not a true case of murder in the first degree and at the most the Board is of the opinion that this applicant was guilty of armed robbery. For that he has now served more than his minimum. He has an excellent institutional record and the trial judge has now written the Board and stated that the proper solution would be to commute this applicant's sentence and place him on parole for an extended period. This commutation was sent to the Board in December of 1952, over one and a half years ago. We have been informed the judge has not changed his opinion in this matter. Under all the circumstances, since this applicant was 17 years of age at the time of the crime and has an excellent institutional record, the trial judge is in favor of commutation and since it is not a true first degree case we are of the opinion that this applicant has been sufficiently punished and we are therefore recommending that his life sentence be commuted."

CHAIRMAN TOMPKINS: Did all three of the men plead at the time of the sentence?

ATTORNEY GENERAL McBRIDE: I will have to look.

BY SENATOR YOSKO:

Q What was the commutation?

ATTORNEY GENERAL McBRIDE: It was from life to 10 years 4 months.

BY ATTORNEY GENERAL McBRIDE:

Q I hand you the folder of DiGuglielmo, who was one of the other two men commuted by the former Board, and I ask you to read the reasons stated therein.

CHAIRMAN TOMPKINS: This was the other accomplice?

ATTORNEY GENERAL McBRIDE: Yes, sir.

A This is Jesse Anthony DiGuglielmo, Jr., who was commuted by the Board September 1954, signed by Wood, Smith, Frank Truscott and William Livensgood, Jr., "This applicant is 28 years of age, he has no prior criminal record. This was a very unusual case and the Board has given this matter necessary study and consideration. This applicant and three accomplices who had been acting as lookouts, entered the room and told his other accomplices to drop their guns. Upon this announcement one of his co-conspirators shot the victim, and in their attempt to escape, carried the victim out of the place where the holdup was occuring, for a period of several blocks. By this time the victim told his co-conspirators to leave him and when he was found by the police he was deceased. On the basis of this the applicant when apprehended pleaded guilty to murder generally and was adjudged guilty of murder in the first degree and given a sentence of life imprisonment. The Board has heard argument before in this matter and recommended that one of the accomplices, Joseph Maleno, be released at the June 1954 Session, which recommendation was concurred in by your Excellency. The Board is of the opinion that the construction of the case as murder in the first degree was a legal error. However, the Board is not going to go into this matter at this time, but merely sets forth in this recommendation that at the most this was murder in the second degree. Since this accomplice has now served over 10 years 9 months of his life sentence we feel that he has served at least a minimum sentence of second degree murder. Therefore, the Board recommends his minimum sentence be commuted."

BY SENATOR YOSKO:

Q What was it commuted to?

A It was commuted to 10 years 9 months, expiring October 28, 1954.

Q How about the third one?

A The third one was this fellow Mollica.

Q What was that commuted to?

A Ten years 7 months, expiring 1954.

ATTORNEY GENERAL McBRIDE: The third one actually served 11 years.

THE WITNESS: This fellow Joseph Maleno served 10 years 4 months expiring July 1954.

BY SENATOR YOSKO:

Q You have a third one there.

A I have three, Maleno, Mollica—you have got confused in the two names, Maleno and Mollica. And then DiGuglielmo is the third man.

BY ATTORNEY GENERAL McBRIDE:

Q Now, of the three, is it a fact that Mollica, the one who was commuted by the present Board, served the longest period of time?

A He served the longest period of time.

BY SENATOR YOSKO:

Q What was that?

A A little over 11 years.

Q Exactly what was it?

A I will have to figure it out for you. Eleven years 8 months.

ATTORNEY GENERAL McBRIDE: At least 11 years 8 months, because it was commuted as of November. He went in in March of 1944 and it was commuted as of November, 1955. When he was released would be a month or two thereafter.

SENATOR SCOTT: Is that Mollica you are talking about?

ATTORNEY GENERAL McBRIDE: Yes.

SENATOR SCOTT: Was it November of 1955?

ATTORNEY GENERAL McBRIDE: I will be corrected if it wasn't.

THE WITNESS: The warrant said 1954.

SENATOR SCOTT: The warrant said '54, that's what I thought. But it couldn't possibly be '54.

THE WITNESS: Couldn't possibly.

SENATOR SCOTT: But it does say '54?

THE WITNESS: That's right.

BY ATTORNEY GENERAL McBRIDE:

Q Therefore, this man did considerably more time than the other two commuted by the Board?

A That's right.

Q And this Board in passing upon this case had the knowledge that the prior Board had denominated this to be murder in the second degree?

A It is so indicated in their reasons, yes.

Q Now, the minimum for second degree had expired when 10 years was up?

A That is correct.

Q So that if it were in truth and in law a second degree case, this man who was commuted by this Board which is under discussion, had done about at least a year and a half more than the minimum time?

A That is correct.

BY SENATOR SCOTT:

Q Just to clarify my thinking, what did Mollica plead?

A They all pled guilty generally to the crime of murder.

Q Generally to the crime of murder?

A Yes. There was no jury trial. Three judges heard it.

BY CHAIRMAN TOMPKINS:

Q This sentence was determined after a hearing by the court en banc?

A That's right.

BY SENATOR SCOTT:

Q They were found guilty of what?

A First degree, all three found so guilty, and sentenced to life.

ATTORNEY GENERAL McBRIDE: We can all agree under the felony murder theory they were all guilty of precisely the same offense, whatever it was. The court said it was first degree; the Board of Pardons in 1954 said it was second degree. The Board of Pardons—

MR. KOHN: I don't agree with that. We won't agree with that.

ATTORNEY GENERAL McBRIDE: They did say that—

MR. KOHN: The one case.

ATTORNEY GENERAL McBRIDE: Two cases.

MR. KOHN: Well, two cases, but they never said it in Mollica's case.

ATTORNEY GENERAL McBRIDE: No. But in Mollica's case this present Board had before it the fact that they had said it the year before and then they didn't attempt to pass upon the degree.

CHAIRMAN TOMPKINS: Do I understand that in the two accomplices' cases that the sentencing judge did not raise any objection to the commutation, but in the Mollica case, the third case, the judge did raise an objection together with the District Attorney?

BY CHAIRMAN TOMPKINS:

Q Am I correct in that?

A It says here in these reasons, as written, that the judge did not. I have not inspected the record of Maleno or DiGuglielmo. I am accepting what is said in the reasons. You are correct in that assumption, Mr. Tompkins.

ATTORNEY GENERAL McBRIDE: I have nothing else.

REDIRECT EXAMINATION

BY MR. KOHN:

Q Did the other men have as long a prison record as Mollica?

A Without an inspection of the record I could not very well tell you.

Q Look at the record.

REPRESENTATIVE BELL: You mean criminal record, Mr. Cohen?

MR. KOHN: Yes.

THE WITNESS: Yes, that's as I understand it.

BY MR. KOHN:

Q Let's go into Maleno, who was 17 at the time.

A I have it here. I have before me Joseph A. DiGuglielmo.

Q How old was he?

A At the time of this offense, 17 or 18.

Q DiGuglielmo was 17 at the time of the murder?

A. Yes.

Q And he had a previous record for disorderly conduct and aggravated assault and battery; is that right?

A That's correct.

Q Let's get to the other defendant, I think that's Maleno?

A Yes.

Q He was 17, too, was he not?

A He was born in 1926.

Q So he was 17 years of age, is that right?

A That would make it so.

Q Did he have a record?

A I don't know. I'll look—yes, he did. Prisoner's criminal record was submitted by the police department of Philadelphia. 1943, disorderly conduct and malicious mischief, discharged by Judge Bonniwell.

Q Did Mr. Barrett intervene for either of these people, as far as you know?

A I don't know. I'll have to look through the record.

Q Look through it and see if you can find any letters from Congressman Barrett.

ATTORNEY GENERAL McBRIDE: Or from anybody else.

MR. KOHN: Anybody else.

ATTORNEY GENERAL McBRIDE: Of a different political faith.

MR. KOHN: I mean in regard to intervention with the Board for special listing or re-hearing. (Witness hands letter to Mr. McBride.)

THE WITNESS: I am conferring for political advice.

MR. KOHN: All right. We might as well get the whole record in it while we're at it.

BY MR. KOHN:

Q That's from an attorney?

A Yes.
Q That man represented him?
A Yes.
CHAIRMAN TOMPKINS: Who represented him?
MR. KOHN: Counsel in the case, John Patrick Walsh.
THE WITNESS: That's the only letter I see in there. This is Maleno.
Now DiGuglielmo—

BY MR. KOHN:

Q There was no re-hearing granted on first application?
A Yes.
Q You stated prison officials make an investigation. That only considers, of course, their conduct in the prison and has nothing to do with the outside affairs or conduct of the individual?
A That is correct.
Q And they don't know what is his outside conduct?
A They would have no factual knowledge.
Q And, of course, it is a known fact that prisoners behave pretty well in prison under constant supervision?
A They generally do.
Q Neither of these 17 year old boys was considered a ringleader?
A That I don't know, only from what I read in the record.
Q For the record, neither one shot anybody?
A No, neither fired a gun.
MR. KOHN: That's all.

BY REPRESENTATIVE BELL:

Q Mr. Hean, were these two commutations given at the same Session that turned down Mollica's second request?
A Let me get that question. You have a good one there.
Q Mollica was turned down in November, 1954?
A Yes. 1952, and then in 1954—turned down in 1952 and 1954.
Q Now, when were these boys—
MR. KOHN: Anthony DiGuglielmo was given commutation September Sessions 1954, and Mollica was turned down in November, 1954.
ATTORNEY GENERAL McBRIDE: So that they turned him down even after they had granted one of the commutations.
MR. KOHN: That's right. The other one was in June, 1954.

BY REPRESENTATIVE BELL:

Q Mr. Hean, it is logical to presume that these two boys' cases were fresh before the Pardons Board when they were heard in the Mollica hearing, 1954?
A I wouldn't say that because it is a different Board. Between '54 and '55—
Q I'm talking about the '54 turn down. Mollica turned down November, 1954.
A Oh, '54 Board? I would say it was still fresh in their mind.

BY ATTORNEY GENERAL McBRIDE:

Q Still fresh in their mind when they said the judge was wrong and it was a second degree case?
A Certainly.
MR. KOHN: Let's get that straight. They never said that in the Mollica case, Mr. McBride.
MR. McBRIDE: No, of course.
MR. KOHN: That's your inference, though.
ATTORNEY GENERAL McBRIDE: The prior Board said it was second degree.

BY CHAIRMAN TOMPKINS:

Q Did the two accomplices file an application in 1952, the same as Mollica did? Anything in the record?
A Nothing in the record to show that Maleno and—
Q First one that filed was in 1954 and the Board commuted in 1954, is that right?
A That's right; the record so shows.
Q Now I am interested very much from another standpoint. I don't know whether the records disclose this information or not, or whether you have any knowledge of it. But what is the educational background of these three boys?
A We have some information on that, if you would care to have it, if you want to spend a moment with it.
The penitentiary does get some information as to the family background and the prior educational equipment of these fellows. Their report says, vocationally, this fellow Mollica that I am talking about, he had six jobs—that is, six jobs prior to admission. Then after admission to the penitentiary, he took up work in the school and got along there.
Q I mean prior to the time of the commission of the offense.
A Prior to the commission of the offense.
Q Does it show the family background and educational—
A We have that here. "Education: Stanford achievement test rating, 4.9 Advanced Form D. Attended parochial school from 1931 to 1937 and attained the 6th grade. Barrett Junior High, 16th and Wharton Streets, Philadelphia, from 1937 to 1938, and completed 7th grade. Had very little interest and was truant. Quit to go to work." That is the background of Mollica.
Q What does it show on the other two boys?
A All right.
Q I don't like to take up the time but I think it is interesting to know what the backgrounds are.
A I have this fellow Joseph Maleno, the penitentiary gives this report on him: "Education: Stanford achievement test rating is 11. Attended St. Rita's parochial school, Broad and Ellsworth Streets, Philadelphia, 1942 to—rather, from 1932 to 1940 and attained 8th grade. Then he went to Southeast Catholic High School at 7th and Christian from 1940 to 1941 and attained the 9th grade. Then he went to the Bok Vocational School at 8th and Mifflin and attained the 10th grade. Liked school, adjusted well, not a truant until his last year. His marks were good and his conduct was good."
And then this boy, Jesse DiGuglielmo: "Education: Stanford test rating, 5.2. Attended St. Thomas School at 18th and Morris Streets from 1931 to 1938, and attained the third grade. Attended school at 17th and Tasker from 1935 to 1940 and attained the 6th grade. Also Brighton School, 17th and Bigler, 1941"—I don't know what this means—"subject was very truant, had little interest. Worked most of the time, adjusted well, marks fair; conduct good."

CHAIRMAN TOMPKINS: Any further questions? We will close this; if the General has additional information to bring in, he may do so.

ATTORNEY GENERAL McBRIDE: Thank you.

CHAIRMAN TOMPKINS: We will close the inquiry into this case at this time and take up the balance of the Erie cases. In the meantime, I declare a 10-minute recess.

(Short Recess)

BURTON RANDOLPH LAUB, having been duly sworn was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q Judge, you are a judge of Erie County?

A Yes.

Q How long have you been a judge?

A Eleven years.

Q Are you a member of the Common Pleas Court of Erie?

A Yes, in a way.

Q You have written some books, have you not?

A Yes.

Q And I think you were also a member of Governor Fine's Committee investigating prison riots in Western Penitentiary in Rockview in 1953?

A Yes.

Q I will refer to it as the Flatley case: are you familiar with the facts surrounding those cases?

A In a general way.

Q What effect did the actions of the Board of Pardons have on law enforcement generally in granting commutation to some of the members of the ring known as the bribery cases?

A I can't specifically give any illustrations of bad effects except one, in discussing the matter with Herbert Foster, who was one of the police officers involved, exhibited considerable disgust—

Q Disgust?

A Yes, and felt that there was no use in going after law violators if they were going to be released out of hand. I think that the most serious effect of the unfortunate affair was the effect on the citizenry at large, those that I came in contact with, judging by the comments which I heard.

Q Were there rumors in Erie all around that these men would be left out by the Pardons Board before their sentences expired?

A I didn't hear any such rumors. I did hear it discussed prior to the time that the men were convicted. On numerous occasions I overheard conversation amongst youngsters, young men of college age, who were visitors at my home and I confess I eavesdropped, and in which they felt that if the men were tried, they would not be convicted, if convicted, they would not be sentenced, and if sentenced, they would not serve their full time. And the subsequent conferments of the later things of course had a bad effect on them.

Q Each sentence was meted out in each individual case and the facts were studied by the judges who meted out the sentences?

A Yes, the three of us sat and consulted. I don't think we agreed upon any specific term for each of them, but we discussed general principles and we discussed what factors should be considered in imposing sentence, yes.

Q You would be in a position to know all the factors, it being in your home county—

A Well, I don't say I knew them all. I knew, I think, most of them by either hearsay or personal knowledge.

Q Were they considered seriously before sentence was imposed?

A Very seriously.

Q Were any indictments nol-prossed in these cases?

A That I can't say. I understood there were some nol-prossed. In fact, I know of one, one case that I tried where the man was convicted and I was convinced that the evidence didn't warrant a conviction—I can't remember the man's name. I granted a new trial. I think that was nol-prossed.

BY CHAIRMAN TOMPKINS:

Q Is that one of the so-called bribery cases, Judge?

A Yes.

BY MR. KOHN:

Q What is the effect on judges when the Pardons Board reduces sentences and says they feel the defendants served enough time in their opinion. Does it have any effect on the judges?

A It depends largely on the judges. I have talked to a great many judges concerning the problem presented by both parole and commutation and pardon. Many judges resent interference. A good many feel that the commutation is entered without considering facts.

Q Do you think the fact you were a member of the Devers Committee investigating those prison riots—

CHAIRMAN TOMPKINS: A little louder, please.

BY MR. KOHN:

Q I think we have stated you were a member of the Devers Committee. During your investigation of the riots in the penitentiary, were any complaints made to you as a result of the actions of the Pardons Board under the Fine Administration or previous to that time?

A There were some. Not too serious. The main complaint of the prisoners was with respect to the Parole Board, and what they call the holding over, past the short term. There were some complaints that the Pardons Board gave applications a light touch. I think the principal complaint of the Pardons Board which we heard at that time came mostly from prison personnel rather than prisoners.

Q Do you have any recommendations in regard to the Pardons Board as presently constituted or as constituted in the past?

A Yes. I have thought about it since I talked to you over the phone the other day. I think this Committee and Legislature can do the present Pardons Board a service. Number one, I think the Constitution provides that the Pardons Board—I don't think it calls it a Pardons Board, but provides that the Pardons Board shall act after a full hearing and after due notice. I think since the Constitution doesn't define what a full hearing and due notice is, I think the Legislature could define that—

(Representative Bell hands book to witness)

—yes, it says, "No pardon shall be granted or sentence commuted except upon the recommendation in writing to the Lieutenant Governor, Secretary of the Commonwealth, Attorney General, Secretary of Internal Affairs, or any three of them, after full hearing upon due public notice and in open session."

Members of the Pardons Board, as I look at it, are rather helpless, as far as on-the-side influences are concerned, even though they may have rules against it. I think they need protection against outside influence. I think if some legislation were enacted describing what a full hearing is, providing for public reading in open session, public open session of all communications to the Board or any members thereof, some litigation upon the activities of those who are employees of the Board, such as the Secretary, preventing interference by him through influence or otherwise, and I think also under another section of the Constitution, I think it is Article 3, Section 9, which says that the offense of corupt solicitation shall be defined by law, I think the Legislature could define corrupt solicitation so as to include anyone attempting to influence the Pardons Board out of doors.

Q Wuld you as a judge allow someone to talk to you in chambers about a case that is coming up before you, a criminal case—I mean outside of an attorney.

A No, sir. And I don't even talk to an attorney unless a member of the District Attorney's staff is present, or if he comes in I tell them to bring one in.

Q Do you think it good practice for this Board, or even prior Board, to have intervention by members outside who are not in the case, in this case for instance where an attorney was on record and was denied hearing before November, then to have someone intervene to you verbally or through writing to speed up the court's action? Do you think that is a good practice? I am not saying that this Board or the other Board did or didn't do it. I am asking you generally if you believe it is good practice.

A My testimony so far meant to apply generally, not to this particular Board.

I don't think it is debatable even that it is good practice. I think it is bad practice. I don't think any member of this Committee—and I would swear that Tom McBride would say the same thing, that it is not a good practice and should be discontinued.

Q Do you think that that sort of thing is the thing that caused rumors around the State that are causing this investigation?

A There is no question about the fact that actions of the Pardons Board have for a number of years been regarded with suspicion. There have been rumors of influence and things of that nature. I have no evidence of it—

Q Would you grant a new trial to somebody, or rehearing on the basis of some Congressman or some individual coming in to see you about it when you already denied it to an attorney?

A Of course not. If I did I should be removed from the bench.

Q What do you think of someone on the outside discussing the case with some member of the Pardons Board previous to the time the case is neither listed or heard, but knowing that it is going to be listed?

A Well, I think it is wrong. I think the rumor is that the practice has prevailed for many years.

Q Do you know Myron Prosser of Erie?

A By reputation.

Q What is his position in Erie?

A At the present moment I think he owns the Erie Coach Company.

Q Is he a registered Republican or Democrat?

A. I couldn't answer that.

Q Taking for granted as is in the evidence at the present time, that Myron Prosser talked to the Pardons Board—to a member of the Pardons Board about the Ben Kauffman case, do you feel such member should disqualify himself from sitting on that case?

A Maybe not disqualify himself but I think he should reveal the fact to the other members of the Board, and I think it should be publicly revealed.

Q Outside of perhaps the confidential information acquired by the Board, from the parole agent assigned to the Board to investigate the case, do you think all the records of the Pardons Board, that is, letters coming in, should be made public?

A I believe that, because public bodies, if they have nothing to hide, should be anxious to have their records under open scrutiny. I do think, however, that there are some matters which should be concealed from the prisoner particularly, confidential communications by persons close to him in the institution.

Q But I mean these letters—like in this case, for instance, naturally, if there were hundreds of letters and petitions sent in, do you think the contents of this file should be open to the public?

A I do.

Q Do you think where the Pardons Board considered editorials cut out of newspapers, and considered them, do you think that should be brought to the attention of the public?

A Yes. But I don't condemn the Board for considering the public editorial because I think public reaction is a matter of vital importance in the matter of treating criminals, both at the time of sentence and time of release.

Q That gets to my next important question. Do you think the Pardons Board should have an investigation made in the community, of the attitude of the community in regard to the release of that particular individual?

A I believe so. I believe the Pardons Board should be apprized of the public reaction to releasing a prisoner. I think it is important from the standpoint of respect for law and order. I think it is important from the standpoint of the protection of society, contemplated releases of prisoners may—I don't know of any instances where it has, but it may bring to light some hitherto unknown information.

Q Isn't it a fact that most of these letters are sent, or naturally requested by the applicant through his attorney?

A I think that is unquestionably true. I wouldn't say all of them. I think some people volunteer sincerely, hoping to aid somebody. But I think most of them are solicited, of course.

Q Do you think they should be investigated to find out whether the facts, if you are going to consider and

rely on the facts, whether or not there is anything there that should be investigated?

A Well, my experience with people signing things is that people will sign almost anything. I believe we are all familiar with the reported experiments on that score in various colleges and universities. I remember reading once where a large number of signatures were obtained to a petition asking that everybody who signed it be thrown out of college and they had no difficulty in getting a large number of signatures.

Q Do you think that in a murder case, either first or second degree murder, that the Pardons Board should obtain expressions from the relatives of the deceased and consider those just like they consider the other letters?

A I know there have been instances where relatives of the deceased have actually appeared before the Pardons Board and argued. I know at least one such instance I can cite.

Q Do you think that would have a great significance on the action of the Board if the deceased's relatives were afraid for any reason, that that should also be taken into consideration?

A Yes, I think so. Any matter of commutation or any sort of executive clemency involves a matter of two sides, and I think acting in the capacity of exercising executive clemency, it should be studied from all angles.

Q With regard to consideration of life imprisonment, do you have any thought on the matter of distinguishing as to how soon life imprisonment sentence should be considered? You heard this morning the Board laid down a rule and immediately violated it. Do you have any thought on that matter?

A I don't like policies with respect to treatment of prisoners, because there are always exceptions. There may be circumstances, after-discovered circumstances, or changes in makeup, or changes of view, which may justify releasing the prisoner before the minimum of a second degree, or there may be circumstances under which he should be incarcerated for life—you just can't fix a policy in a situation like that, any more than a judge can fix a policy of sentencing anybody that comes before him charged with a certain crime to a very definite fixed term, which I think is very wrong.

Q Do you think with regard to commutation of death sentences to life sentences—I mean, would commutation of those sentences to life, would that have effect on judiciary or law enforcement agencies generally?

A I can't answer that. My own personal experience includes only one situation, in Commonwealth versus McCausland, where the man got the electric chair and the Pardons Board commuted it to life imprisonment. That particular case was peculiar, unusual, and there was no adverse effect, either on the sentencing judge or on myself, who at that time was District Attorney. But as I say, there is a large sentiment among the judiciary that the Pardons Board acts capriciously and without considering facts, considering things other than facts. Whether that feel is supported by the evidence, I am not in a position to state.

Q Once the courts of this Commonwealth and of the United States ruled on the legal and technical questions involved in any first degree murder where there is a death penalty, do you think the Pardons Board should then take into consideration the possible laws laid down by dissenting judges, or should that be the law of the land, the majority opinion?

A I think, of course—and this is strictly my opinion—the Pardons Board was never established as an appellate court to review the law. That is only by personal opinion, and I don't think it is a function of the Pardons Board to decide whether or not a man who has pleaded guilty and found guilty of first degree murder was guilty only of second degree murder or manslaughter, unless new facts came to light afterwards which would justify making such a decision, and after appeal time, of course, when the matter can't be brought to an appellate court except possibly coram vobis.

Q Once the appellate court rule, and the Supreme Court of the United States rule that a man has been granted a fair trail, do you feel the Pardons Board should use the opinion of a dissenting judge as a reason for commuting the death sentence as laid down by the Court and the jury?

A No, sir, I do not.

Q Do you have any specific recommendations about anything that I have not asked you about?

A You did ask me about the Devers report. I do have one specific recommendation which all the members of the Devers Committee concurred in. You see, we recommended, and the Legislature went along wholeheartedly with our recommendations—we recommended that penal affairs be transferred from the Department of Welfare into the Department of Justice, and one of—that is not the only reason, but one of our beliefs was that with the Attorney General as head of the Department of Justice, and also automatically a member of the Board of Pardons, that something could be done about the gross disparity in sentences which exists throughout the Commonwealth—in fact, throughout the entire United States. One of the causes of prison revolt—and I might say, may be somewhat justified—was the fact that in the same cell for the same crime, and with the same background, would be two men, one serving an enormously large sentence, and his cellmate serving a comparatively minor one, and that engendered great bitterness, great sense of injustice. We felt that the Attorney General could afford a very valuable liaison between the penal correctional departments and the Governor in sort of levelling off these grossly different sentences in appropriate cases.

You see, we considered the Pardons Board along with all the other arms of the penal correctional system of Pennsylvania, and we decided that we ought not to make any recommendations concerning the Pardons Board itself because it was a constitutional body, and we felt if we recommended any constitutional changes it would require more study than time allowed, for one thing, and for another thing we thought that the basic things that we were trying to accomplish might be sidetracked in fighting over something like a constitutional amendment. So we thought the best thing to do would be to make the suggestion, such as we did, to make the best use of the available tools. In this case we thought the Attorney General, sitting on the Pardons Board, that he could in a measure bring about some levelling off of these sentences which are grossly disproportionate.

BY CHAIRMAN TOMPKINS:

Q Do I understand then, Judge, that you have found as a result of your investigations that one of the basic factors that gives rise to prison riots is this disparity between sentences for the same offense?

A That is true, that is one of them. It engendered bitterness. Of course, there are many factors and you can't weigh them, you can't understand what induces them to break prison—bad food, poor prison administration, disparity in sentences, fancied or real gievances with respect to parole—all of those things combine to cause these flare-ups. At that time I think we had thirty of them in the United States, just strung across the country like Japanese lanterns on a wire.

Q Well, now, Judge, the Pardons Board is a constituted Board made up of certain designated individuals, and it has operated in that fashion since 1874. Now, the makeup of the Board is, as you have read, Lieutenant Governor, and the Secretary of Internal Affairs, who are elected officers. Then you have the Secretary of the Commonwealth and the Attorney General, who are appointive officers. By their very nature they have a tinge of political appointment as well as service. Do you think the makeup of that Board and the operation of the Board today is antiquated and outmoded, and that perhaps a different personnel should make up the Board?

A As to personnel, I am not sure. Almost any institution in a community having the form of government which we have, cannot be completely divorced from that thought in politics.

I think the basic difficulty with the Pardons Board as now constituted is a complete lack of definition of the aims of the Pardons Board. If a Pardons Board is merely there for the purpose of exercising clemency, such as the type of clemency which Pontius Pilate exercised when he once a year turned somebody loose into the population, that is one thing. But if it is there for the purpose of correcting errors in sentence—and judges make errors all the time—of course, if it is there for that purpose, there should be some definition of purpose and some definition of the manner in which the proposition is to be approached, not merely upon whim, or caprice, or some other consideration which has nothing whatever to do, but—

Q Well now, Judge, I think you sat here this morning and heard something in connection with the ease with which they make the rules, change the rules and develop the regulations. That has been testified to on numerous occasions heretofore. Do you think that the Pardons Board should be flexible to the extent that they have been, or do you think they should adopt rules and adhere strictly to them?

A I don't believe that the Pardons Board should adopt its own rules. I believe the Legislature has the power under the Constitution to specify how the Board shall operate. Just so long as the Legislature steers clear from interfering with the prerogative of the Board and with the prerogative of the Governor and acting upon the Board's recommendation, I think since the Constitution does not define what a full hearing is, I think the Legislature has the full power to do that without infringing on the Constitution or without infringing on the powers of the Board or Governor.

Q Your notion is they should not have this flexibility but there should be some fixed rules of the game?

A I believe so.

Q I believe you also mentioned that you would suggest some remedial legislation to bring certain practices under the corrupt solicitation?

A I believe so. Now, that poses a delicate question. Everybody in the State would not consider himself corrupt in writing a letter to the Pardons Board, for example, asking for clemency for a certain prisoner. It would be an unthinkable proposal to make such conduct in itself a penal offense. However, the thing can be put in reverse. A bridge of conduct of such solicitors could be made, and I think in the reverse the members of the Pardons Board can be made subject to penal sanctions if they permitted themselves to be approached. I think the Legislature would have that prerogative.

Q Well now, Judge, it has also been testified that there are ten meetings of the Pardons Board a year, that at each meting of the Pardons Board they hear between 75 and 100 cases, that the average time—some a little less, some a little more, but the average time for the presentation of a case and argument of it is ten minutes. Now, do you think people as busy as members who constitute the Pardons Board and are in other fields, do you think they should have that number of cases to decide the vital questions before them? Should we have a Board to devote full time to that purpose?

A I think it is important enough the Board should devote full time if there are a large number of cases. Even a study of the files, prior to going on the bench, prior to these ten minute discussions, prior to the actual hearing, even that would not be sufficient for a member to fully apprize himself of the facts, and then go into executive session with the other members of the Board can only result in the light touch that some of the officials complained of.

BY REPRESENEATIVE BELL:

Q Judge Laub, you mentioned the Devers study.

A Yes, sir.

Q It is your feeling that if there is a reconstruction of the composition of the Board, would you recommend that the Attorney General remain on this Board?

A Definitely.

Q Representative Tompkins brought out the fact that we have three other members of the Board, who have numerous duties, they are very busy State officers. In addition to their other duties, I understand they serve on other boards, Senator Yosko and so on. Did you have any other suggestion, with the exception of the Attorney General, to a possible recomposition of the Board?

A I have not given it much thought with respect to reconstituting the Board. I should definitely think the District Attorney should be on that Board. I might state in the past Attorney General and the present Attorney General we have had extremely good men who would give valuable leadership to the other members of the Board before rendering a vote. If, as you say, the members of the Board are so busy that this becomes a sideline, then definitely I should say the new Board should be composed of individuals who are trained in penology, and follow other factors being entered into.

Q I don't know whether you are familiar with the fact that there are printed rules of the Pardons Board.

A. Yes, I have seen them.

Q Now, sir, if these rules are waived, should that be announced in a public hearing?

A I don't think waiver of a rule in a public hearing is of much effect. If a rule is to be waived and the public is to be notified, it should be done before the public hearing, certainly not at the hearing, because by that time anyone who would be interested in the thing would not be present, because not having had notice he wouldn't be there.

Q Would it be your view that there be actual public notice of some type or other that certain rules are waived or going to be waived?

A If they are to be waived, I think so, yes.

Q Tell us why.

A I will tell you why. Suppose prisoner "A" makes an application which is refused. That rule which requires him to wait a certain length of time—

Q One year.

A One year, all right. That rule is to be waived. Individuals relying upon the rule, interested in combating or contributing some knowledge to the Board respecting that particular application would be lulled into a false sense of security, feeling he would not have to make further scrutiny until the end of the year to determine whether or not the applicant will be heard. The first he hears about it is when the application is granted, because the rule has been waived in the past and he has had no notice of it. That is the reason for my answer.

BY REPRESENTATIVE LOPRESTI:

Q Judge, you suggested public opinion should be considered?

A Yes.

Q Would you as a judge allow public opinion to prejudice your judgment in any particular case?

A Not prejudice, no, but I would consider it, because the effect of a sentence which I imposed upon a prisoner, within legislative limits, is a matter of vital importance to a judge in building respect for the law and courts.

Q But my point is, you wouldn't allow it to prejudice your judgment?

A No, sir, but it would be a factor to be weighed.

Q And if you thought in a particular case that a defendant should be dismissed and public opinion disagreed, you would dismiss that defendant?

A I would.

Q And you think the Pardons Board should act in the same manner?

A I do.

REPRESENTATIVE LOPRESTI: Thank you.

BY SENATOR YOSKO:

Q Judge, there are certain types of sentences that are imposed by judges where they obtain jurisdiction over the prisoner, so far as a parole is concerned.

A Yes, I am familiar with that.

Q What is that maximum sentence?

A It is two years.

Q Isn't it true that there are judges that impose sentences and they retain control over the prisoner, where they parole the prisoner before the sentence expires?

A That is true, yes, sir.

Q Do you think then that this Board ought to amend its resolution, to go down to the judge level and determine why judges parole sentences before their time is up?

A If it is pertinent to your inquiry, I think you ought to, certainly. That is part of your job.

Q There is a great deal of that going on, though?

A I don't know whether there is a great deal but some is going on. I do it myself, and I have very good reasons for so doing.

Q It is assumed, too, that the Pardons Board has good reasons for doing what it does?

A It is assumed so, but the rumor is that it isn't.

Q Rumor prevails the other way, too?

A That's right.

Q All right. I am still thinking about law enforcement. Judges also have the right, don't they, to suspend a sentence if they want to?

A That's right.

Q And judges do suspend sentences?

A They do.

Q That sometimes arouses public opinion?

A. It does.

Q Do you think then that the Legislature ought to enact legislation that would prohibit judges from suspending sentences?

A No, sir.

Q You don't?

A I don't, no, sir.

Q You think the judges ought to retain that right?

A I do, and for a very good reason, if I may explain.

Q Even though in many cases they abuse that right, you still think they ought to retain it?

A Whether it is abused or not is beside the point. In an individual case if a judge abuses it, he is of course open to public scrutiny and censure, same as anybody else. But in the case of a judge it is different, entirely different than a Pardons Board. The judge is not only present at the locale and in the community, but he also is thoroughly familiar with the facts. The Pardons Board only gets the facts by hearsay, or by reading a very lengthy record without observing the witnesses. In consequence, the Pardons Board's judgment can't be as good as the sentencing judge—if the sentencing judge is conscientious, and there are of course judges who are not, as you have indicated.

Q From the information that was given to us, the Pardons Board does have all of the information before it that it ought to have when it considers a case.

A Well, I would deny that, sir. Under even a most ideal situation, I don't think the Pardons Board has all the information it ought to have. It probably has all the information available, but it has not had the opportunity to observe the witnesses. It has not had an opportunity to look at the prisoner himself, to talk to the prisoner and to understand some of the factors which motivate him. That, of course, without having the Pardons Board sit in originally at sentence, would be an impossible thing. Perhaps it is true they have all available information, but I don't think they have all the information they ought to have.

Q What other information do you think they ought to have?

A Just as I have described it. Maybe I am inarticulate but I think I described what I thought they ought to have.

Q You think the Pardons Board, from what I gather—if I am wrong you tell me—you think the Pardons Board ought to go into a more extensive hearing and bring in witnesses that appeared at the trial?

A I don't know as I would go that far, no. Why would it be necessary for them to re-try? But I think that a Pardons Board, in examining a case, should take into consideration not only the events as they existed at the time of sentence, but all available information concerning the prisoner afterwards. But factual, and not merely on a letter or on a statement by counsel in open hearing, or statement by somebody, which is after all not evidence. Perhaps it would even be better if the present Pardons Board were to be retained, if the Pardons Board itself had an advisory group to make studies and investigate matters, other than just sending a parole officer around to make a cursory investigation.

Q Well, judge, from some of the records that I examined in the file, I note that the parole officer—to what extent and how thorough he goes through the testimony, I don't know, but they refer to the notes of testimony, and from it they take out the facts and briefly state them in the report, which the Pardons Board takes under consideration, and they get a report from the District Attorney, they get an opinion from the judges, they get a report from jail in which the prisoner is sentenced to, the attorneys appear and argue, and other persons can appear, too, I understand, and either oppose or favor a petition. And it seems to me, just from the information that they have before them, that it is sufficient. I just don't get your logic when you say they don't have enough information.

A I say they don't have all the information they ought to have. I say they probably have all the information which is available to them. But it seems to me that such a vital matter as commutation or pardon is a matter which should have thorough study and scientific study, if possible, something that is based upon a real consideration of all the factors involved and not upon a feeling which is engendered. In answer to what you have said, Senator, anybody who has ever heard two counsel arguing a case before a jury, interpreting the testimony which has recently been given on the stand, would wonder how there can be two logical views based upon the same words of a witness. And yet you do get two completely conflicting views. Now, for a member of the Parole Board, or one of their agents, to read cold words in a record and decide what the facts are from reading those cold words, it is a rather unusual thing to say the least. Wouldn't you say so, Senator?

Q Well, the time element is involved. Do you think the Pardons Board, or somebody on the Pardons Board, should review all of the testimony?

A Oh, certainly.

Q You do?

A Certainly.

Q Are you familiar with functions of Pardons Boards in other states?

A No, sir—although I understand ours is pretty much patterned after some of the others.

Q Judge, getting back to these suspended sentences—and I don't want to be picking on judges, understand—

A Go ahead.

Q —sometimes I think a lot of these criminals finally develop into hardened criminals, because from some records I looked at, you find a whole series of crimes committed and you find down the line, suspended sentence, fine, suspended sentence, fine, which encourages that individual to do something worse each time. It seems to me that maybe we ought to do something about the judges, too,—

A It may be,—

Q —make it mandatory that they—

A It may be so. But before you make any complete conclusion about that, remember this also, that there is a situation of a first offender harshly dealt with by a judge who then becomes embittered and gets a criminal tendency, which he might not have had if he had gotten a suspended sentence in the first place.

Q That is all right if it happens the first time, but some of these records you look at here, there are suspended sentences all the way down the line until they finally commit a crime which is really serious, and then they are finally sentenced, go to jail.

A Of course, I suppose that does happen. And I would not defend a judge who had a record of a man before him of repeated offenses who would then go along with a suspended sentence. I wouldn't defend him. He would have to defend himself.

Q But the human element is involved in both?

A Absolutely.

Q The actions of judges, Pardons Boards, and everybody else.

A Absolutely. Judges are supposed to be inhuman, but I think they are.

Q But just because a judge does suspend a sentence doesn't say that it is necessarily a political influence that does it?

A Necessarily, I would hope that no judge would be politically influenced in imposing a sentence.

Q And if a judge paroles a prisoner after he sentences him, it doesn't say there is necessarily political influence involved?

A Certainly not.

Q By the same token, the same rule should apply to the Pardons Board?

A Certainly.

BY MR. KOHN:

Q Of course, judges are also amenable if they make mistakes to a voter?

A To a voter, to appellate court, and to public opinion, which is stronger than anything.

Q The Pardons Board is not?

A No. The Pardons Board is in Harrisburg. We live in the community where we sentence prisoners, and if we make a mistake, we have to face 100,000 people in the street. And I tell you, it isn't fun.

Q Do you think if these cases are listed specially for rehearing, the judge should be notified and everybody who was notified the first time should be notified?

A I think so.

Q Do you think the reasons given by the Pardons Board for commutation of any sentence should be made public, to the public press?

A With the one exception that I mentioned, if the con-

sideration involves information obtained from some confidential source which ought not to be revealed.

Q All right. With regard to—

A However, making it public to the public press, and so forth, even there there may be some limitations imposed. I don't believe in sealing up public records completely.

BY CHAIRMAN TOMPKINS:

Q Judge, I don't think he is talking about the files. I think he is talking about the reasons which they gave. The reasons are something which are filed with the Secretary of the Commonwealth—

A Oh, yes.

Q —and they are a matter of public record or should be made a matter of public record?

A That is true.

Q Do you think those reasons which the Pardons Board gives for their actions should be published?

A Absolutely. I think in the protection of the Pardons Board, as well as anybody else, because the Pardons Board is entitled to have its side of the situation made known to the public as well, for the very reason that sometimes their actions are questioned.

Q Now, judge, it has been testified here that the Board only files reasons when they commute, or pardon. No record is put in the file, there is no information kept in connection with a refusal. When they come to a second, third or fourth application, there is nothing to guide a Board on why the previous applications were refused. Do you think that there should be some record in that respect also?

A I believe so, sir.

Q Your Boards are constantly turning over?

A That's right, their tenure is short, relatively short, too short for those who are incumbent and somebody coming behind doesn't know why they acted the other way. It would be most helpful to the new Board to know why.

BY MR. KOHN:

Q Wouldn't it be especially hard for those on the new Board, or on any Board, to understand facts and technical questions if the Board were not attorneys?

A Yes, May I add this. Prisoners, violators of the law, don't abdicate all of their rights—maybe most of them. But one of the most disconcerting factors of both parole and commutation, in so far as its effect upn the prisoner is concerned, is when they get a notice, "Your application has been refused because of prior criminal record and other factors," that "and other factors," it just kills the prisoner, because he's at a loss to know why his application was refused, and in fairness to him, maybe he ought to know.

Q Have you heard any expression of futility on the part of judges to sending recommendations to the Pardons Board because they are not considered very much?

A Yes, I have. No longer ago than the last judicial conference in Pittsburgh.

Q Do you know Mr. Coughlin in Erie?

A I know Morris Coughlin.

Q He is Democratic City Chairman?

A I don't know whether he is now. He was.

Q Do you know Mr. Phelps?

A I know of him.

Q County Chairman?

A County Chairman, yes.

Q Do you think if they went to see members of the Pardons Board and had conferences with them in regard to any particular case, that those members of the Pardons Board should disqualify themselves from listening to that particular case?

ATTORNEY GENERAL McBRIDE: There isn't any such evidence.

MR. KOHN: It is in the record. Mr. Hean said so. Do you want me to bring it out?

ATTORNEY GENERAL McBRIDE: All right, go ahead. I won't take the time to bother.

MR. KOHN: I will take the time if you would like to have it.

BY REPRESENTATIVE BELL:

Q While they are looking up the fact, you mentioned Phelps as County Chairman. He is County Chairman of what?

A Democratic Party, Erie County.

BY REPRESENTATIVE LOPRESTI:

Q Judge, are you Democratic or Republican?

A You mean my philosophy or registration?

Q Registration.

A Registration.

BY REPRESENTATIVE BELL:

Q What is your philosophy?

A My philosophy is for freedom at the polls.

BY REPRESENTATIVE LOPRESTI:

Q Would there be any reason why the Republican County Chairman couldn't talk to you if he met you somewhere?

A About what?

Q About anything.

A He frequently talks to me about the weather and things like that.

BY MR. KOHN:

Q Do you think he should talk to you about cases before you?

A He had bettter not try it.

BY REPRESENTATIVE LOPRESTI:

Q If he stops you on the street and says, "I see you are going to try Joe Blow tomorrow," do you think that would be improper?

A No, sir, unless he went a little further and tried to follow it up.

Q That's right. It depends on the nature—

A Absolutely.

Q —of the conversation, as to whether a man feels he is being tampered with or not?

A Of course.

Q So actually, to make a true determination of whether a man should disqualify himself, you have to know what the conversation was between the individuals?

A That's right.

BY REPRESENTATIVE BELL:

Q Suppose the Republican County Chairman asked you to give special consideration to a man that is going to be tried, what would be your reaction to that?

A Well, a rebuke at the least. But he wouldn't have an opportunity to, because to get into my office he would have to state his business to the common secretary which Judge Evans and I have, who is very meticulous about finding out about people like that, and he would tell him if he had recommendations to make, he would have to make them in open court at the time sentence is imposed.

BY CHAIRMAN TOMPKINS:

Q Supposing he should come to your home and try to intercede for somebody?

A I have never had that unfortunate experience, but if I had I am afraid I might not act like a gentleman.

MR. KOHN: The exhibit I was looking for is already in the evidence. It's in the letter from Hean—

ATTORNEY GENERAL McBRIDE: But I don't think there is any evidence they talked about the merits of the case.

REPRESENTATIVE LOPRESTI: No, nothing like that.

MR. KOHN: That I can agree with.

CHAIRMAN TOMPKINS: My recollection of the letter is that they talked to certain members of the Pardons Board, I don't know who they were now, but there was no disclosure as to what that conversation consisted of.

ATTORNEY GENERAL McBRIDE. That's right.

BY MR. KOHN:

Q Did you ever have the County Chairman come to you to talk to you about procedure of trial?

A No, sir. Nor have I had the Democratic Chairman come, too.

BY CHAIRMAN TOMPKINS:

Q Did attorneys come to ask you about procedure?

A Sometimes in company with—that is, both sides represented, they do.

Q That is more or less of a pre-trial conference, to get things lined up?

A Yes, that happens frequently.

BY MR. KOHN:

Q You don't talk to attorneys in the presence of others who might be interested in the case, like relatives, or county chairmen?

A No, sir.

CHAIRMAN TOMPKINS: General?

ATTORNEY GENERAL McBRIDE: Yes.

BY ATTORNEY GENERAL McBRIDE:

Q Judge, you have indicated that the Board of Pardons, being required to dispose of a petition for commutation on a cold record, is not quite as satisfactory as if they had seen the witnesses?

A That is true.

Q But that is true also of our appellate court procedure, isn't it?

A Yes, except that the appellate courts don't as a rule decide facts.

Q Well, they decide legal questions upon which a man will live or die, and they are empowered under the law to grant new trials if they believe the verdict was against the weight of the evidence?

A That is true, but as a rule—and that is only an exceptional case. As a rule, they feel bound by the finder of the facts, which is the jury.

Q But whatever it is they decide, they have nothing before the Supreme or Superior Courts except cold records?

A That's right. No witnesses—except in cases of original jurisdiction.

Q Now, did I understand correctly that you would be in favor of a statute which would compel the Board of Pardons to have the trial record before it?

A No, I didn't say that. I assume that they do have the trial record before it. I assume that. I don't know that would be required by law if they do have it.

Q You wouldn't be in favor of a statute which would compel the members of the Board to read that record?

A Not necessarily.

Q Because there is no statute now which compels each member of the appellate court to read the record.

A That's right. But I think somebody ought to read it.

Q Oh, well, I suppose certainly the opinion writer should, and undoubtedly does. It may be that others do also.

Now, as to the writing of letters, wouldn't you consider that whether a man is a Congressman, a State Senator, a member of the Legislature, or an ordinary citizen, if he chose to write a letter having to do with the liberty of a fellow-citizen, he was within the protection of the Constitution which gives him the right to petition for redress of grievances?

A No, I don't think that constitutional question is involved at all.

You have got another consideration, and that is this question of—well, to use a vulgar expression, "backdooring." I can only cite what has been the practice with most courts that I know. They don't consider letters, even letters brought in by attorneys, because the judges say, "If this man is interested in this man and is willing to face me and answer my questions regarding him, I would be glad to have him. But what he says in a cold letter is of no moment to me and I won't consider it."

Q But judges do constantly receive letters from persons who are interested in the disposition of a matter before the judge on one side or another?

A Well, by constant, if you mean by that regularly, I would say no, from my own experience. But there are such letters sent.

Q Wouldn't you say you received at least fifty a year?

A No.

Q You wouldn't?

A No. I would say possibly five.

Q Five a year?

A Yes.

Q Five a year, in which the writer takes a position one way or the other—

A No. Usually those letters are requests for a private interview to discuss the case. They don't tell what they want to do, they just want a private interview to discuss he case. I would say we get 300 to 500 applicants at

our chamber doors for private interviews, which are turned away.

Q Do you get anonymous letters also?

A Only of unpleasant nature. Not with respect to cases we are about to try there.

Q Now, there has been discussed here the question of a reconstitution of the Board of Pardons, and it has been suggested that there could be a different non-political board. In your concept of such a Board, would it be appointed or elected?

A I don't know. As I say, under our system, any public body has some aspect of politics connected with it—and it doesn't necessarily mean in a sinister connotation, either. Now, you happen to be an appointed member. I would have the utmost confidenc in anything you did because I know you personally and I know your history. I might not feel that way about some other appointee. It all depends on who it is.

Q But the situation itself is governed in many instances by the political complex of the appointing power, isn't it, whether it is Republican, Democratic, or what the political philosophy of the appointing power is?

A That is one defect of our system in the United States that you can't escape.

Q You have spoken of many of the reasons that caused men in institutions to become dissatisfied—and I must say I agree wholeheartedly with most of the things you have said—would you add to that list, a lack of hope on the part of men in jail that they can by good conduct be released?

A I never encountered what I would consider a man who lacked hope, and I talked to a good number of them. Even men who were serving life sentences and had little hope, but still that last clinging vestige of hope remained. I have in mind one fellow who was sentenced to life imprisonment, when I was District Attorney, on a crime of passion more or less, but one time I asked him in prison why he didn't apply, and he felt he had made his life in prison and could not cope with the outside and didn't want to get out. But there may be individuals who have lost hope, and when you find a man like that, you find a dead man.

Q Now, you would not be for the abolition of executive clemency, of course, would you?

A No, sir.

Q We recognize, to start off with, that the Governor is the only person who exercises executive clemency?

A Yes.

Q The Board of Pardons is simply a sort of Board which investigates the case for him and makes its recommendations?

A I won't say they investigate the case. I don't know. I thought that's what you were trying to find out here.

Q Yes. You have been asked about other states. You are of course familiar, by reason of general knowledge, that some states don't have any board, committee, commission, or any group which screens the cases for executive clemency and that they go directly to the Governor?

A I understand that.

Q That would be hardly desirable?

A Hardly desirable. I think that situation obtained in Pennsylvania prior to this constitution. Was it under the Constitution 1938? You can tell me better than I—where the Governor actually exercised the appointing power without the intervention of the board.

Q My understanding is that the constituent assembly started in 1794 making recommendations and that we have had a body which made recommendations but that it was not exclusively up to the Governor, even prior to 1874. But I am not sure about that.

You have talked about a levelling off, the fact that men are in jail, let's say one doing a ten year sentence, the other doing a three-year sentence, both for having done almost the same thing under almost the same facts, that that causes a bad situation in jail?

A Unquestionably.

Q When you speak of a levelling off, a Board of Pardons or executive power can't increase a sentence—

A You can't increase; you can only cut down.

Q And for that purpose it is a good thing that prison authorities and inmates can look towards some group, whether it is this Board of Pardons or any other, or whether it were reconstituted, in order to do that levelling off?

A Unquestionably. I am wholeheartedly of that belief.

Q You are familiar, of course, with the English system, to which are appointed to with pride, in which, although there are no degrees of murder, death sentence follows upon conviction of murder generally; are you familiar with the fact that immediately upon the passing of that sentence by the judge, there commences a complete reinvestigation of the case by the Secretary of Home Affairs, which is a lay investigation, not a judicial investigaton, and even prior to the recent discussion about capital punishment in England approximately one-half of the men sentenced to death were actually commuted to life imprisonment.

A I am not familiar with that. It's interesting.

Q That is so, and I will document it for the information of the Committee later.

A. Of course, that doesn't argue that it is correct.

Q Well, it does argue that England has a non-judicial investigation to determine, after all the legal remedies have been complied with, whether this man ultimately should be put to death.

A We have the same thing here, we have a non-judicial investigation here.

Q By the Board of Pardons?

A Board of Pardons. Only it is not automatic here.

SENATOR SCOTT: Is that done only where death sentence is imposed or is that done in all cases?

ATTORNEY GENERAL McBRIDE: It is not done in all cases.

SENATOR SCOTT: Only where the death sentence is imposed?

ATTORNEY GENERAL McBRIDE: What I am talking about is a compulsory, automatic investigation of the case—even without application of the prisoner.

CHAIRMAN TOMPKINS: That investigation starts immediately after the sentence is imposed?

ATTORNEY GENERAL McBRIDE: Once the sentence is imposed, the Secretary for Home Affairs starts an immediately investigation of the entire man's life in a non-judicial way, to determine what recommendation he will make to the Sovereign, and it is a fact that even prior to the present fuss over capital punishment, in approxi-

mately 50% of all cases where men were sentenced to death, their sentence was commuted by the Sovereign upon such recommendation.

BY ATTORNEY GENERAL McBRIDE:

Q Now, we do have that lay hearing by the Board of Pardons?

A That's right. Of course, there is a great difference between our system and the English system. If there is any politics in the English system, it is not at the level of the Sovereign, it is at the level of the Home Secretary. Of course, I don't know any of the circumstances, what motivates the Home Secretary in making his recommendations or anything of that nature. I do see one great merit in that, and that is that the complete, exhaustive investigation begins at once rather than a delayed action affair coming along ten or twelve years later. I think there is a great advantage in that.

Q Well, you will agree, of course, that as to death sentences, it comes on prior to the date fixed for execution?

A Yes, of course.

Q And the recommendation is made of record in the office of the Secretary of the Commonwealth?

A Yes.

Q When you spoke of publicizing, I don't suppose you meant that the Board of Pardons should hand out a press release each month, did you?

A No, sir.

Q Any more than judges hand out press releases of their opinions?

A No sir. What we do, we explain what we do in our opinions, and I think that's what the Pardons Board should do.

BY CHAIRMAN TOMPKINS:

Q Those opinions are filed in the clerk's court and everybody can look at them?

A That's right. And if they are good enough—mine aren't, they look in the D and C reports.

BY ATTORNEY GENERAL McBRIDE:

Q I have read many of yours in the D & C reports. When you say that there should be a public reading of communications, do you mean that if anybody has written a letter to any member of the Board of Pardons, they should at the hearing read out the fact that they had gotten such a letter?

A Read the contents of the letter if it refers to that particular case.

Q Well now, suppose a man comes up—well, suppose 100 letters come in, should they be read publicly?

A Yes. I think the end would justify the long, tedious delay in reading them, but I think it should be done.

Q Judges do, or at least you have known of judges, haven't you, who have talked to an attorney on one side without his adversary being present about a mere matter of procedure? That is, "When will the case come up? Can we get it on this list?" or "Can we get it on that one?"

A Yes, I will go along with that. Lawyers have called on the phone, for example, and said, "Will you agree to hear the case without a jury? Can we have it on such-and-such a day?"

Q Perfectly civilized practice?

A Certainly. You don't deal at arm's length with Members of the Bar all the time.

Q With respect to the sentence, the judge has before him the man, and he has fresh in mind the circumstances of the offense, and then he decides what he thinks would be a proper sentence in view of all the circumstances?

A That's right.

Q But he recognizes, does he not, that that man who stands before him today may, through the passage of years, become a different, a better or a worse man, that may be he ought to get out earlier, or maybe he ought not to get out at all?

A That's right. A judge's sentence is merely the reflection of the judge's prognosis as to the man's progress in the future, considering all the elements—and there are many, as you know—all of the elements and factors that go into sentence—the public protection, element of punishment, the opportunity to reconsider the question of rehabilitation, and all of those various factors, they are all considered and weighted by a judge in imposing a sentence. But in the final analysis, it is merely the judge's prognosis.

Q Now, when the Board of Pardons acts, let's say 8, 9, 10 years later, it has a statement of the applicant as to what he believed the facts were, he has a check—the Board has a check on those facts through the Parole Board which has combed the notes of testimony. They have the recommendation of the trial judge, of the district attorney, who either personally appears or writes a letter, they have the recommendation of the people in the penitentiary, who have been seeing this man day after day for the last 8 or 10 years. Don't you think that that ought to give them a fair way of judging, particularly if the judge, district attorney, and prison authorities are unanimous on the subject, that that should give fair way to Judge——

A If the authorities are unanimous on the subject, I think it should have great weight. If there is not unanimity, I think it should give the Board cause to pause and hesitate.

Now, when you talk about a man's prison record, you have got to recognize an established fact in penology, and that is that the old and hardened criminal, prison life has become quite familiar to him, he can go along in prison and have a perfect prison record, whereas a new offender in prison for the first time and rebelling against the change of his condition, may have a lousy prison record. Yet the chances of rehabilitation may be better with the younger one than with the old and hardened criminal who is able to evade the infractions of prison rules, and by currying favor and so forth may get good reports that he shouldn't get.

Q The prison authorities themselves know that what you say is so, don't they?

A They know it. And I am sorry to say this, but it has occurred that the prison authorities, by a system of mark-ups and so forth, have deliberately favored prisoners that should not be favored. Prisoners get something on a guard, or the guard has used them for some improper purpose, and the guard is afraid of them, wants to curry favor with the prisoner, he gives them a good mark-up when he is not entitled to it—the system is based upon humanity, and being human it is necessarily

imperfect. It has to be. This system is imperfect; any substitute you make for it is going to be imperfect, and all that you can hope to do or the Legislature can hope to do is to cut down the margin of error as much as possible.

Q You are aware of the fact, are you not, Judge, by reason of your long experience, that the rate of recidivism among persons released through commutation is the very lowest rate of any criminals released in any institution in Pennsylvania?

A I say I am not familiar with that as a fact. I would challenge it on the basis of what I have been informed, but without any study. I would challenge it on the basis of J. Edgar Hoover's national report, there is no reason to presume Pennsylvania would be different from the whole national picture.

Q Did J. Edgar Hoover say the rate of recidivism is higher among citizens commuted by Board of Pardons than with respect to persons who have served their minimum terms?

A Hoover's report generally covers persons released on parole. You have the situation here, the Pardons Board commutes and the person is released on parole at the expiration of his minimum. So he is on parole, which is a natural concomitant of his commutation. You also have the individual the Senator commented on who is paroled by judge. But the greatest recidivism is among parolees, I understand it is well over 55% or 60%.

Q Did J. Edgar Hoover say that?

A I believe so.

Q Judge, would you send me a copy of that?

A If I can find it, yes.

Q I meant to make a distinction between parolees——

A I will say this if I may, Tom. Some years ago J. Edgar Hoover made the statement also that every Federal Bureau of Investigation man who was killed in the line of duty was killed by a paroled prisoner.

Q Now, what I want to get is a distinction between a parolee who is a parolee by having served his minimum sentence, and a man who is a parolee by having had his minimum sentence commuted.

A I don't think there is a distinction, because by having his minimum commuted by the Pardons Board it is the same as though he had received that minimum by the sentencing judge. Therefore, he has served his minimum and he is out on parole.

Q But would you say, Judge, there is no distinction in fact—I assert that I am informed by the penitentiary people and by others that the rate of recidivism of all parolees in Pennsylvania is lowest among those whose sentences have been commuted by the Board of Pardons.

A That is an extremely interesting fact. I hope it's true.

Q We intend to develop that—and I am not referring to just this present Board; I am referring to Boards of Pardons.

A I am not familiar with that and it is extremely interesting and I am glad to hear you say it.

Q Now, Judge, in respect of these particular cases that were up in Erie County, you handled some, Judge Rossiter handled some and Judge Evans handled some?

A That's true.

Q I would like to cover the ones that you handled. You handled Ray Cynlewicz?

A That's right.

Q When that case was up before the Pardons Board you made no comment?

A I told the praole agent I opposed.

Q Oh, did you?

A I think I told him in all cases except in the John case, that I was opposed.

Q We have it down here that we had no comment. We will check what the Parole Board record shows. How about Arthur Damore? We have this comment, that you took the position that sentence was justified, but that the matter was up to the Board.

A I very likely said that.

Q Janes Lee John, you left it up to the discretion of the Board?

A Yes, because James Lee John presented a little different picture as I recall it. The man was ill. It was reported to me he was not going to live his term and I didn't see any percentage in opposing him and having him die in prison, I couldn't see any sense to that and I was perfectly willing to let the boy decide that.

Incidentally, in most of these cases I have exhibited willingness to abide by the decision of the Board. I have no illusions about my own infallibility on sentences.

Q Well, you are not complaining about the Board's action in any of these cases where you sentenced them, are you?

A Complaining about it?

Q Yes.

A No, I have not entered any complaint. I do have some reservations as to why the commutations were made, however.

Q Judge, we noted on our record that you had no comment on Ray Cyulewicz, and I have just been handed the confidential report, underneath "Comments of Judge and District Attorney" it says "Judge Burton is on vacation until after 8-31-55."

A Could be.

Q That's why we said, "No comment," not that you failed to tell us but that we didn't have any comment from you.

A That's possible.

Q In connection with James Marlino, we have a record that you took the position that the sentence was justified but that you neither opposed nor recommended. Is that correct?

A Very likely.

Q And as to James Solomon, you took the same position, that the sentence was justified but that you neither opposed nor recommended?

A That is very likely the interpretation on what I said put there by the parole agent. In substance, I would say that would be what I said. Actually, I probably said, "I think the fellow got what he deserved, but if the Pardons Board feels that it is wrong, let them go ahead and change it." Of course, that would be within the prerogative of the Pardons Board anyway.

Mr. Kohn handed me this report—evidently a clipping from the Philadelphia Inquirer of Thursday morning, April 12, 1956, which makes me amend my interpretation on what FBI Director Hoover said. According to this article, he noted that of 18 FBI agents killed in the line of duty, 11 were slain by convicts granted clemency. So I was wrong by 7.

Q Well, I wouldn't challenge it in any event because we are not here to protect those people.

So that to sum it all up, in your experience there is one viewpoint taken by the district attorney and very often a different viewpoint taken by the judge, and very often, both or one, after a number of years, changes his views about the desirability as to the time in which a man should get out?

A I think so. Sometimes it is due to changes of personality. One mellows with age. One forgets the sharp edges of the circumstances which caused him to impose a harsh sentence in the first instance. One becomes more forgiving. One becomes forgetful.

ATTORNEY GENERAL McBRIDE: I think that's all I have.

DEDIRECT EXAMINATION

BY MR. KOHN:

Q Judge Laub, under Article 4, Section 9, it says he shall have power to remit fines, etc., referring to the Governor. Do you think the Governor should be a rubber stamp for the Board of Pardons?

A No, I believe the Governor should exercise discretion.

Q Do you think an underling should study the files or do you think in all cases it is his responsibility and sole responsibility to study the complete file and arrive at his own conclusion?

A No, I wouldn't go that far. I wouldn't say that a busy Governor of a Commonwealth should necessarily be required to study the entire file. I think he should give it sufficient study to inform himself of the facts. But to rehash the whole thing—except in an unusual case, I would say no.

Q Do you think the Flatley cases were unusual?

A Yes, I think the Flatley cases were unusual.

Q Do you think the Darcy case was unusual?

A I am not familiar with the Darcy case except by hearsay.

Q That is the Bucks County case?

A Yes.

Q Do you think in murder cases he should assume the responsibility, if he is going to exercise the clemency which he is given by the Constitution, to find out all the facts in a first degree murder case where the sentence is capital punishment?

A I think he should acquaint himself with the facts. But I do think that a Governor is justified in relying somewhat upon the statements—

Q I am talking about a particular case—

ATTORNEY GENERAL McBRIDE: Why don't you let him finish.

BY MR. KOHN:

Q Go ahead.

A I think the Governor would be juestified in relying upon a statement by the Lieutenant Governor or Attorney General, or somebody on the Pardons Board. Yes. I don't think that he would be required to look with suspicion upon a statement made by a member of the Pardons Board. But I do think he ought to acquaint himself with the facts and have an independent judgment. But on factual matters, I think—

Q Well, it is his responsibility. But what I am getting at is, the fact is the Governor can't persist in clemency except when such clemency is recommended by the Board of Pardons.

A I understand that.

Q They may be in error too?

A That's right.

Q When you get a serious case, three people involved, capital punishment, do you think the Governor should exercise the responsibility to find out whether or not the reasons assigned by the Pardons Board are good reasons and whether or not they are in the records—

A Yes.

Q. —that is, that they are based on the record and not on some outside influence, or some outside—

A Yes. I think that is a responsibility of the Governor. I think that the Governor ought to do, as I understand from the newspapers he did in the Flatley case, find out what the public reaction is to it. That is one of the factors to be considered. I think he owes that responsibility to make an independent judgment on the thing. But I don't believe that a busy Governor should be required to go into all the facts of the matter. He should be able to rely on what he was told by a duly constituted officer.

Q Do you think an hour and a half on one of those files where there were 21 appeals would be sufficient for the Governor to make up his mind as to what his decision would be?

A I can't fairly answer that question because I don't know what the file contains.

MR. KOHN: All right.

BY REPRESENTATIVE BELL:

Q I have a further question. In your discussion with the Attorney General, discussing the Erie graft cases, you said you had some reservations as to why the commutations were granted. Will you explain that statement?

A Yes, sir. I have not been living in a vacuum. I have been reading newspapers about this particular matter, and certain facts, if they are facts, have been reported which might lead me to have some reservations as to whether or not these men were released because the Pardons Board sincerely thought they ought to be released. I don't think I need to elaborate on that any further because of what has been produced here, you are well aware of it.

Q I wish you would elaborate on it.

A Well, for example, I have been told these figures—and again I don't like to talk about something that I can't put my finger on. I have been told there have been in the neighborhood of 59 or 60 cases from Erie County within the last 5 or 6 years—

MR. KOHN: Within the last two years.

THE WITNESS: Within the last two years—and the great bulk of those that have been granted commutation were these particular individuals. That is something which in the ordinary course of events doesn't transpire. When you have a serious matter like a Mayor of a great city going into open court and confessing in open court that he has accepted a bribe and betrayed the trust of his constituents—it is just one of those things that—well, it could happen. I don't deny that the Pardons Board could have been motivated by the most proper motives. But I say I now have some reservations about it.

REPRESENTATIVE BELL: That is all.

BY ATTORNEY GENERAL McBRIDE:

Q You don't predicate any of these decision upon what you read in the newspapers?

A No, sir.

BY SENATOR YOSKO:

Q Judge, were you in here all morning?

A Yes, sir—half asleep part of the time. I was tired.

Q Did you observe the conduct of this hearing this morning, the proceedings?

A Yes, sir.

Q I just want an opinion from you. Would you consider Mr. McBride's activities here, or his examination of you and the other witnesses, as obstructionism so far as the duties of this Committee are concerned, or would you consider his activities as helping to enlighten the Committee and others with the facts dealing with the activities of the Pardons Board?

A Well, Senator, instead of giving you a direct answer first, may I say something and then give the direct answer?

Q All right.

A I would say from my knowledge of Tom McBride, that there is no consideration which would make Tom do anything dishonest, or dishonorable, or conceal anything. And I would not consider from what I observed here that Tom McBride has obstructed anything. I don't know as he has helped anybody, but I don't think he obstructed anything.

BY SENATOR SCOTT:

Q May I ask you this, Judge. Is this the only hearing you have attended?

A Yes, this is the only hearing I have attended.

ATTORNEY GENERAL McBRIDE: Would the Senator care to say whether he thinks I have obstructed somebody at some other hearing?

SENATOR SCOTT: I merely asked the question following through with Senator Yosko's question.

BY CHAIRMAN TOMPKINS:

Q Are you fully acquainted with all the issues that have been raised in connection with the conduct of this investigation?

A Obviously not. I couldn't be. I wasn't here. I have gotten my information second, third, and fourth hand. I just have an impression, and impressions aren't worth much.

Q I want to second your appraisal of General McBride, because I have seen. But there have been issues raised in connection with the General that I don't think constitute part of the question, and we'll leave your answer stand as is.

ATTORNEY GENERAL McBRIDE: Well, could we meet that issue?

BY ATTORNEY GENERAL McBRIDE:

Q Do you see any conflict of interest in my appearing before this Board of Pardons?

A I think I know what you are referring to. You mean with respect to whether or not you represented these defendants, whether or not you are on the Board now, and so forth?

Q Yes. I represented a man named Darcy in the Supreme Court of Pennsylvania. I never appeared before the Board of Pardons for him: I am now Attorney General, that is in the Department of Justice, the Board of Pardons is being investigated. Do you consider there is any conflict of interest in my position?

A In all fairness, I can't see it.

BY CHAIRMAN TOMPKINS:

Q Even though the Darcy case is coming before this Committee for review?

A It seems to me, that had Tom McBride appeared before the Pardons Board and had participated in negotiating a commutation, that then there might be a serious question. But merely because he represented the man before the Supreme Court on an appeal—being under oath I have to give you an honest opinion—my honest opinion is I don't see a conflict of interest.

Q Suppose along the way it became necessary to interrogate him in connection with his representation?

A Well, it might in such circumstances develop a conflict of interest. But there are occasions when attorneys have found it necessary to appear as a witness in a case in which they have entered an appearance, and they make application to the court for leave to testify and to continue on, and then it is a discretionary matter with the judge.

BY ATTORNEY GENERAL McBRIDE:

Q And that is where the attorney calls himself or his side calls him?

A That's right.

Q You can't disqualify a lawyer just by the other side calling him?

A That is true. But of course, I assume that everybody here is interested in getting an answer to what appears to be a problem, for the benefit of the great people of Pennsylvania, without regard to personal feelings. And I assume everybody on this Committee, Tom McBride, and particularly Dave, whom I have known for a good many years as well.

BY CHAIRMAN TOMPKINS:

Q This Committee is interested in getting a full, complete, honest investigation—

A I am sure you are.

Q And issues are raised because of principles involved, not personalities?

A I have also known you many years favorably and well.

Q That is up to this point, but we don't know what might develop later.

CHAIRMAN TOMPKINS: Thank you.

(Witness excused)

ELMER L. EVANS, Judge, having been duly sworn was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q You are the President Judge of Erie County?

A Yes.

Q How long have you been on the bench in Erie County?

A A little over 17 years.

Q Did you handle the Ben Kauffman case?

A I did.

Q Are you familiar with the facts?

A I am.

Q Do you know how many times the application for commutation came up before the Board of Pardons?

A No. I know that I wrote a letter expressing some surprise at the first application that went in during appeal, and that is the only letter that I recollect writing on the whole matter. I have a copy of that letter here.

Q That application was refused. Have you received any further notice of the application being reconsidered?

A Not to my knowledge.

Q For rehearing?

A I would say no, for the fact that I have no recollection—

Q All right. Did you oppose the commutation of this defendant?

A Yes, sir.

Q On what basis?

A Well, I considered him more culpable than the fence who took the material, and he was guilty by the admission of his own lawyer. At the time I sentenced him, they said the sentence was very light. And I think the last sentence in my letter was that I strenuously opposed commutation.

Q What do you mean by fence?

A Person who buys stolen goods. He would accost a person and tell him if they had old plastic material. That was unusual to begin with because how would an employee in a plant have it to sell?

Q He approached the boys—

A Yes.

Q One of the basic factors in the commutation was that the boys only received, I think, four months, and you paroled him within two and a half months?

A That's correct.

Q What did he have to say about that as giving a reason for this commutation?

A The only reason I can give is that they were accosted by Kaufman. He took the product. They never saw anything of the product or anything else in connection with it. When they were accosted or apprehended after the material was noted as missing, they confessed the whole thing and made it possible for us to get the men whom we considered the most serious offenders, and these were younger fellows, and we took that into consideration.

Q Do you know there was a rehearing granted on this matter subsequently?

A No, I knew nothing about it after—

Q Did you hear Mr. Phelps interested himself in this case?

A No.

Q Did you know anything about that?

A No.

Q Did you hear the fact that Mr.—

A Oh, I may have heard something since this investigation started.

Q But at that time—

A Oh, no.

Q Would you have opposed it if a rehearing came up?

A Well, I don't know whether I would or not, having registered my full story on it prior to that time.

Q What could you tell me about the Flatley cases. You wrote a letter that Schwartz should receive at least as much consideration as Flatley. What do you mean by that?

ATTORNEY GENERAL McBRIDE: Did he say that?

THE WITNESS: Yes.

ATTORNEY GENERAL McBRIDE: No. He should do as much time—

THE WITNESS. No, I said least—

ATTORNEY GENERAL McBRIDE: But I don't think you put it in terms of consideration. I just wanted to help out.

THE WITNESS: To serve at least as much time.

ATTORNEY GENERAL McBRIDE: Serve at least—not that he should receive as much consideration?

THE WITNESS: No, at least serve—well, anyway, all right. I didn't say receive at least as much consideration.

ATTORNEY GENERAL McBRIDE: That is what I thought, I didn't think you had. He should have at least as much time.

CHAIRMAN TOMPKINS: He should have at least as much time as the other ones?

THE WITNESS: That's right.

BY MR. KOHN:

Q The Board used that as one of the reasons for commuting his sentence. What do you have to say about that?

A Of course, I thought that Mr. Flatley shouldn't have been released in the fist place, because I gave him too little time for a particular reason. And this man Schwartz, who the Chief of Police said ran the Police Department, was equally at fault because he and Flatley, and Martin, split the $1500 over the—

Q Schwartz was the ringleader?

A Yes, but Flatley I though was still equally responsible because he was the public official. After Flatley had been released, then I got this wording about Schwartz, I said he should get at least as much as Flatley, and that is as far as I felt I should go.

Q Schwartz took an appeal, did he not?

A Two of them that I know of.

Q Schwartz put in his application that he used this money for political purposes—I think you made a quote on that in your letter.

A I remember the testimony, he introduced some statements of money expended, but as I looked at them on the bench they were all for dates prior to the time he was collecting this money. I think I quoted in here some information that he had made no return of political funds, and even if he had, it still wouldn't justify him getting the money the way he did.

Q Where you familiar with the case of Martin?

A Yes.

Q Do you know Martin received a commutaion, I think of 19 days, in comparison with Schwartz's—I think it was a little over six months. How did you feel about the fact that you recommended Martin because he assisted the Commonwealth and testified against Schwartz and

all the others, and the Board gave him less consideration than they did Flatley and Schwartz. How da you feel about that?

A I couldn't understand it and I can't now.

ATTORNEY GENERAL McBRIDE: Did you say they let Schwartz out in 6 months?

MR. KOHN: I didn't say that.

ATTORNEY GENERAL McBRIDE: Did you say they gave less consideration to Mr. Martin than they did to Schwartz?

MR. KOHN: That I did say.

ATTORNEY GENERAL McBRIDE: Well, Schwartz served a year and Martin served 11 months and 11 days.

MR. KOHN: There was a difference in sentence, 6 months.

ATTORNEY GENERAL McBRIDE: Six months difference?

MR. KOHN: That is what I said.

THE WITNESS. We gave Martin 6 months less than Flatley and Schwartz becaue the three were gathering this money and dividing it. There was no evidence that the District Attorney had to implicate Schwartz and Flatley until they apprehended Martin, and they talked to him for about 15 minutes and he said, "I am glad to get rid of the whole thing," and he told the rest of the story, which was followed by Schwartz and Flatley confessing.

BY MR. KOHN:

Q Do you know for a fact Martin's wife was under operation for a cancerous condition at the time—

A All I would know is that his attorney told me that.

Q Actually, there was no opposition of any kind to Martin's release?

A No. As things developed up to that time, I was for it.

Q Previous to Flatley's release, did you know others had been let out by the Pardons Board, a Camilli and some of the others?

A I can't remember exactly. From the record now the information came in that they were released with a letter of August 1. None of those men were men that I handled. Either I was—well, I don't know, except we had left all of it to the Parole Board, and that is all I was interested in.

Q Did the Pardons Board ever notify you that they were considering further commutation of the Flatley sentence from one year to less time than that? Did you ever receive notice of that?

A No sir.

Q Judge Evans, you have heard your associate, Judge Laub?

A Yes, sir.

Q He testified at great length here. I wonder if you have any suggestions to offer so that I won't have to go through long questioning.

A I don't think it is necessary.

Q Do you have any suggestions to give?

A All I would say is, that there doesn't seem to be great disagreement on fundamentals here on the part of anybody, from the questions and answers. I think we all agree that no criminal case should be ultimately and completely closed. Even the writs of coram novis, under old English law, permitted the old cases to be reopened by the trial judge, if necessary. But we also must realize the opening of them and consideration of them must be backed by some judicial judgement, integrity, and experience.

Now I am frank to admit that as a young judge, I made some errors in that respect, and I rather think that any Parole Board coming in as it does every four years with men, many of whom are not judicially trained, may not realize what the present Board does now. Maybe they won't do this again.

So I think we must have a Parole Board with the overall power that a judge does. But I feel it should either be a Board which has the time to devote to these cases, who will eliminate political approach—and we must assume the people believe the political approach is right and have so considered for many years—otherwise they wouldn't get the so-called proper people to come there. The system has that error in it.

Q You are referring to the Parole Board. I assume you meant the Pardons Board?

A I meant the Pardons Board.

Q How do you feel with regards to letters you have written, whether they would receive proper consideration or not; how do you feel about that?

A Well, the Kaufman one particularly indicates they didn't see it or didn't consider it too much.

Q What about the Martin?

A Well, I wrote the letter with all the facts I have given here as my reasons.

Q Do you feel in some cases they have given it the weight it should receive?

A Whether intentional or not, I am not going to say, but it didn't receive too much consideration because the results didn't come out in accordance with my suggestions.

Q Have you talked to other judges about matter of consideration of your communication with the Pardon Board?

A No, I have never talked to any judges about it other than with Judge Laub.

Q Do you think the actions of the Pardons Board in commuting some of these cases which became public property has any effect on law enforcement in your county?

A Well, there was non-satisfactory reaction among the people who were wrought over the situation which developed.

Q Did it have any effect on the police department, these matters?

A We will hear policemen say, "What is the use?"

Q Is Schwartz active now in the Police Department?

A I would say no, from what I know.

MR. KOHN: I have nothing further.

BY REPRESENTATIVE BELL:

Q The man you called a fence, was that Mr. Hoffman?

A Yes.

Q How old was he, do you recall, roughly?

A Thirty-five, approximately, I would say, forty.

Q How old were these two other criminals who were apprehended?

A That is sometime back now, but I would recollect as best I can that they were in their early twenties.

Q Did they have any previous criminal record?

A Also going to my recollection entirely, it is that one of them had some previous experience and the other one did not. And I may be wrong on that.

Q Can you tell us whether or not Kauffman talked these other two young men into this crime?

A That was their testimony. He did not take the stand.

Q Now, Judge, in your testimony you made reference to—I believe your words were to hire the proper people, in dealing with the Pardons Board. Does that deal with attorneys appearing before the Pardons Board?

A No. It just seems to me that this group of men with the great number of cases they have and the present method of approach, gives an overall picture that can't work. It seems to me that if these men are going to give the proper consideration and eliminate politics, and eliminate people who think they can use politics, they must by rules of some kind insulate themselves through trained personnel. Or, if they can't do that, then the Board itself should be of trained personnel—appointed, I would suggest, for a period of time that would make them immune to both Republicans or Democrats, and in that case you wouldn't find so much trouble with these letters. Because if it proved fruitless, it would no longer be followed up.

Q The next question, sir, you made reference to an unsatisfactory reaction following commutation. Will you tell us a little bit more about this?

A Well, it was really a bad situation.

Q What do you mean by that?

A Pretty near every poolroom and cigar store, and outlet of that kind, was peddling numbers. They had certain floors in certain plants. One fellow, Comminsky, was paying tribute for running a speakeasy on Sunday. It had some pretty decent fellows, other than this activity, and it also had some very bad criminals, and you can't eliminate them. They were among themselves not only getting protection, but they were encouraging the rest of some fellows who were in the pool business and not on the inside, or paying too large a percentage. And all of those bad things, all we had was suspicion, and the people knew it, and many of them thought nothing could be done about it. Well, this man, Verga, the policeman, was on the vice squad and he told a former vice squadman, whom Mayor Flatley had hired, that he either had to resign or do a good job. The other said, "I will help you. We'll go to Mr. Johnson." The three of them worked over a period of months, and months, and months, and got the evidence so well prepared that there was 100 per cent conviction—maybe not 100 per cent, I think they allowed one or two off—and the thing cleared up for awhile, and the people felt that a great job had been done. Then, when it was all sort of washed out so quickly,—

Q You mean by that, by the commutations?

A By the shortening of the sentence after we had passed them.

Q And what was the unsatisfactory reaction in the community?

A Well, they thought that they shouldn't have been commuted.

Q Did that have an effect on law enforcement?

A Oh, I wouldn't want to say yes or no. I don't think anybody wants to give up hope. They were just disappointed.

Q Did that have any effect on public respect for law enforcement?

A Yes. The people did say, "What is the use?" in varying degrees, depending upon their intensity of thought.

Q Judge Evans, on the basis of your long experience as a member of the judiciary of Pennsylvania, if I were to tell you that there are printed rules of the Pardons Board which are followed in some cases and waived in other cases, following visits of certain people to possibly the Secretary of the Pardons Board and other people in power, that some persons receive special consideration—do you have that picture, sir?

A Yes.

Q Tell me, sir, is it not a fact that the very backbone of justice is equality of treatment?

A Oh, I think that is true. It has to be.

REPRESENTATIVE BELL: Thank you, sir.

BY REPRESENTATIVE LOPRESTI:

Q You heard Judge Laub testify?

A Yes.

Q I think among his remarks were that he overheard some teen-age boys in his home discussing this particular case, even before it was tried, and they had arrived at the conclusion that they probably wouldn't be convicted, and if they were convicted, they wouldn't go to jail, and if they did go to jail, they would be pardoned or commuted. Now, wasn't that actually something that must have taken place prior to this time to create that kind of impression in Erie?

A I had an experience similar to that on an occasion when they had approximately two bills against a public officer, because there is a feeling sometimes, whether rightly or wrongly, that people who are prominent do not get as much by way of prosecution or sentence as the so-called little fellow.

Q So that uncomplimentary attitude of these young men at the time could reflect upon the court, the jury system, and everything else. In other words, there wasn't much regard for the entire system in the minds of these boys prior to this case and prior to the action of the Board.

A It indicates possibly a lack of faith in humanity and our system, yes.

Q So the criticism didn't arise solely afterwards, there was some before?

A I have heard that thought expressed before with regard to public officials.

Q In other words, it has been general opinion—

A That is one reason why I didn't want this sentence commuted, because it was public officials commuting public officials, and thereby proving that very point.

REPRESENTATIVE LOPRESTI: All right.

BY SENATOR YOSKO:

Q Something was said about hiring the right people. Isn't it general that a person that is in trouble will hire the person they think can help them?

A I didn't mean that, sir. I meant that the Pardons Board should either be able to devote the time to become skilled, or hire people to work for them who will have that knowledge and skill and be immune. I have no

fault to find with a person hiring a friend of his as a lawyer and he happens to be of the same political party, or religion, or live on the same street.

BY REPRESENTATIVE BELL:

Q I have one further question. Following the court hearings in Erie County, did the people on the street still continue to have the same opinion as to possible political influence in your courts, getting a man a lower sentence? Am I confused on that?

A Did they think—

Q Well, you made the statement that it was on the street opinion that people, because of their political position, wouldn't get the same harsh treatment as the average criminal.

A That's right.

Q Now, following the convictions in the Erie courts, did you still have that feeling in Erie County as to the type of justice they received in Erie courts?

A The expression I got that it was clearly wrong in the minds of people. But as you know, people's reactions are based on—possibly facts and possibly erroneous facts. But that was the general thought among the people who expressed themselves to me, that conviction of these men was so unusual and so well carried on—not by the judges, understand, but by the District Attorney and these two officers—that it was too bad it was nullified to a great extent by the subsequent action.

BY CHAIRMAN TOMPKINS:

Q Judge, in that respect, you have indicated that very careful and well-planned investigation brought about these arrests. Now, are arrests in offenses of this kind of a very easy nature, getting proof, is it an easy nature?

A It is difficult. This is the case of a man appointed to the vice squad—not too skilled himself, but honest enough went to a skilled man, who also went to a District Attorney, Johnson, in particular, and also Mr. McLaughlin, Johnson having had FBI training. The methods by which they got the conclusive evidence paralleled FBI operation, with the result that when it came before us, the jury just convicted with absolute certainty time after time. And it is a very unusual situation that would permit that discovery.

Q It is not an easy thing to get proof in matters of that kind?

A That's right. It is very difficult.

Q Now, as a result of these commutations, did you hear any expressions among any members of the police force as to any futility, as to why should we go out and work and get the stuff and get stuff like this?

A The only man I talked to was Vergo. He is the fellow on the vice squad and he made the first approach to another officer telling him either he had to do a good job or get off the force, because this payment of money was going on.

Q What was Vergo's reaction?

A Vergo?

Q Yes.

A Well, he knew that he was jeopardizing his life in certain instances—

Q But I mean after commutation.

A —and he felt very badly that all the results of his work had come to so near naught.

CHAIRMAN TOMPKINS: General?

BY ATTORNEY GENERAL McBRIDE:

Q Judge Evans, did you have any additional persons you sentenced who did not apply to the Board of Pardons but who did apply to you for parole?

A I wouldn't recollect them distinctly. But I do know this, that after—we have 23 in that first batch, and we meant to fix the sentence of each of them according to the severity, and with Flately and Schwartz at a year and a half to three we scaled them down from there on. I think 10 were commuted the first time, then Flatley commuted, then the rest came in and we scaled all of those down as we thought in fairness and of necessity. Those were cases where they were postponed and not tried until later.

Q But you mean that these other people were not sentenced until after Mr. Flatley had been commuted?

A Yes, that's right.

Q You said there was a general impression regarding public officers, that public officers, as distinguished from the so-called little fellow, would not be punished or if punished, would get relief?

A That is not an unusual expression of people on the street.

Q I am not quarrelling with you at all, Judge. But I call your attention to this. Mr. Martin, Inspector Martin, was a public officer?

A Yes.

Q And he was given 1 to 2 years?

A Yes.

Q He was sentenced on January 6, 1955, and when he came up for commutation, after having served less than one-half of that sentence, you recommended that he be released, didn't you?

A I wouldn't think that soon.

Q Let me withdraw that—well, let me see. I have here "Considered favorable after refusal by Board."

A I would have to have the record on that.

Q All right, let's get the record. We have here the record of the District Attorney's recommendation that Mr. Martin be released in June.

BY MR. KOHN:

Q Here are the two letters (handing letters to witness).

BY ATTORNEY GENERAL McBRIDE:

Q Do you have a letter which you sent to the Board of Pardons for the June meeting?

A I suspect that is—a letter of May 27 with regard to Martin.

Q And what did Your Honor say?

A "it is true that although John J. Martin received a one-third share in the bribe money known to have been received, he did after his arrest confess and cooperate at the preliminary hearings, as well as before the grand jury and the petit jury. He received as a result of this cooperation a sentence of six months to a year less than the other receivers of bribes. Dr. Lutz has written me a letter that Mrs. Martin is under his care for the treatment of a tumor involving the right lung and that surgery to remove this tumor will be used in the very near future.

Whether or not this recent development should receive consideration is a question I would prefer to leave with the Board."

Q Then we could put it this way, couldn't we, Judge, that after he had served less than half of his time you did not actually oppose Martin's release?

A You heard what I said.

Q But that is correct that you did not oppose it?

A No, I gave the reasons, it was for the Board to determine. The fact that he had cooperated and his wife was going to have a lung cancer operation, would justify them in granting it further—and I made no recommendation according to that letter.

Q Then he was turned down at that June meeting. Then did you not write a letter later recommending that he be given clemency?

A I remember that "He is the only one convicted who seems to show remorse except being caught and has behaved well," and I recommended that he be released.

Q Did you make a recommendation at any time that he be released before Christmas?

A Yes, sir. "If you contemplate releasing him at the expiration of his minimum period, January 8,"—that is when he would have served his entire time—"I would see no reason for refusal to allow two weeks further reduction in order that he might be home for Christmas."

Q Now, that was done by the Board. That is, he was released on the 17th of December, 1955.

A Well, if that was the date that would be three months before his minimum term had been served.

Q Not three months.

A I mean 13 days.

Q It would be a little more but it is not important to argue the mathematics.

A I said 17th?

Q The 17th.

A Twenty days.

Q Twenty days, 21 days. Now, nevertheless, he was a public officer?

A Yes, sir.

Q Now then, in respect—

A And I also said that "Martin was one of the collectors and participants in the bribery operation going on in this city and most culpable in that respect."

Q Now, when Mr. Flatley's case came up before the Board of Pardons, you left it up to the Board, did you not? You did not oppose Mr. Flatley's release, did you?

A No. We put all 23 of them with a maximum of 2 years, or 3. All of those first 23, and said we left that all up to the Board. We didn't want them coming in, one to Judge Rossiter, one to Judge Laub, one to me, bringing the influence we have been talking about. We wanted the Board to have them all to measure the merits of those cases and have the entire picture. So I said. "See the Board." And I was disappointed with the first 10, I will admit.

Q Well, you didn't say to the Board in Mr. Flatley's case, despite the fact he was a public officer, that you thought he ought not to be given clemency?

A I said it was up to the Board, nothing more. I didn't think it was necessary, sir, to say more.

Q Please believe me, Judge, I am not criticizing you.

A Okay.

Q I think you have a perfect right to say whatever you believe.

A Okay, sir.

Q Leo Comminsky, you left it up to the Board, did you not?

A Yes. That is my recollection.

Q Yes. Edward McColsky?

A I am not sure but what I recommended some leniency for him. At least I felt that way because as it developed, we found that he had only been operating a baseball pool for a limited period in a limited way and had regular employment other than that.

Q I have a brief note to the effect that you didn't have a special recommendation but if the Board grants one, it may feel constrained to grant all.

A That's right.

Q Would that be a fair statement of your position?

A I would suspect that as what I said.

Q And then with respect to Mr. Schwartz, I quote part of your letter saying he should serve at least as long as Mayor Flatley?

A That's right.

Q With those statements, you left the matter otherwise up to the Board, and did not specifically oppose any of these cases?

A No, sir

Q Were there not some men who were paroled by the court before the Board of Pardons acted?

A I can't tell you, sir. There were 40 or more of them and I handled part of them and other judges handled part of them. I couldn't answer.

ATTORNEY GENERAL McBRIDE: That is all.

BY MR. KOHN:

Q Judge Evans, you refer in your letter of October 14, 1955, to possible commutation of sentence from January 8 to sometime allowing at least two weeks reduction for Christmas. What brought that on? Do you have any recollection of that?

A His attorney, Mr. Carney, told me that he was going to apply for whatever he did apply for, and he asked me what my attitued was. I told him. He said, "Will you write that to the Board?" I said, "Yes."

Q Did you have any such request in the Flatley case to commute that from one year to less time?

A No.

Q Nobody consulted you about that?

A Not to my recollection.

MR. KOHN: All right.

BY SENATOR YOSKO:

Q Judge Evans, do you know of any political influence that was exerted on the Board that caused them to grant these commutations in the Erie cases?

A To the Board of Pardons?

Q Yes.

A Oh, I wouldn't know anything about that. There would be no way I could know.

BY REPRESENTATIVE LOPRESTI:

Q You wouldn't find fault with the Board if they allowed one man to go home before Christmas if they changed their opinion—

A I think they made a terrible mistake to start with,

and possibly from then on they had to be quite lenient. Whether they did it deliberately or politically, you can judge better than I. I thought it was wrong.

Q My question is, you say it would be all right in your opinion if they would let Martin go home before Christmas, and you would find no objection to letting Flatley go before Christmas?

A You see, Martin was held longer than these other men.

BY ATTORNEY GENERAL McBRIDE:

Q What other men?

A Well, there were 10.

MR. KOHN: Coulter, Lessee, and so on.

BY REPRESENTATIVE LOPRESTI:

Q Were not Martin and Flatley out at the same time?

A But Martin had six months for reasons of his co-operation.

Q My question is, would you object if they were going to commute it to being before Christmas rather than a couple of days after Christmas?

A No. I have done that many times.

BY CHAIRMAN TOMPKINS:

Q Judge, do I understand it right that Martin had a prior application which had been turned down, and that when he eventually was released, it was on a re-hearing or re-argument—

MR. KOHN: There wasn't any rehearing or re-argument. Just considered in Excecutive Session.

CHAIRMAN TOMPKINS: Reconsideration, all right.

BY CHAIRMAN TOMPKINS:

Q Did the others take the same course?

MR. KOHN: Are you asking me?

CHAIRMAN TOMPKINS: All right, if you can answer.

MR. KOHN: As I recall, Sullsovich and Adiatori, they were commuted and re-commuted subsequently to a lesser time. I can find nothing in the record, either in these minutes or in the files, to show why those things were done. They were done on rehearing subsequently.

ATTORNEY GENERAL McBRIDE: It is not a recommutation. There were not two commutations.

MR. KOHN: Further reduction in commutation, or re-commutation, whatever you want to call it, I see nothing in the record to show when, why, or how, or who instigated it, if that is your question.

CHAIRMAN TOMPKINS: I get the inference that Martin was deferred because—

MR. KOHN: In Martin's case there was a hearing on an application in which Judge Evans wrote a letter, the first one he read. Subsequently, another hearing was some place held, I don't know where, there is no record of it, no rehearing, no petition for rehearing, he was merely commuted, that is all I know.

REPRESENTATIVE LOPRESTI: Wasn't there a re-consideration of the Board's action? Didn't we settle that the other day?

CHAIRMAN TOMPKINS: What I am trying to get at, this question came up about commuting for Christmas and so forth. What I am trying to find out is whether or not Martin was denied consideration until these other matters came up for Christmas, because he may have been the one that turned State's evidence.

ATTORNEY GENERAL McBRIDE: No evidence of that. The fact is, and we have the minutes in the room, but I understand the Board will not be heard today. The minutes shows that Martin was the first one considered for release at Christmas, and the others were not considered—

MR. KOHN: I would like to see the minutes.

ATTORNEY GENERAL McBRIDE: You will see them.

MR. KOHN: I think we ought to put them in rather than—

ATTORNEY GENERAL McBRIDE: So do I. I am saying they are here and we are going to put them in. But Martin was the first one reconsidered for Christmas, and the following day the others were reconsidered for Christmas also. We'll produce those minutes but I say—

SENATOR SCOTT: It will show that Martin was the first one—

ATTORNEY GENERAL McBRIDE: It will show the precise time, meeting and so on.

CHAIRMAN TOMPKINS: The District Attorney said the other day he had the feeling Martin ought to be turned down because he wouldn't turn State's evidence. Am I correct?

ATTORNEY GENERAL McBRIDE: There is nothing in the record to show that.

REPRESENTATIVE BELL: Mr. McBride, there is nothing in the record to show either way, it there?

ATTORNEY GENERAL McBRIDE: No. Except the general view we presume it is lawful in the absence of some evidence that it is fradulent.

CHAIRMAN TOMPKINS: Any further questions?

ATTORNEY GENERAL McBRIDE: I have none of Judge Evans.

CHAIRMAN TOMPKINS: Thank you very much, Judge.

(Witness excused)

ARTHUR J. GARDNER, having been duly sworn was examined and testified as follows:

BY ATTORNEY GENERAL McBRIDE:

Q Your occupation, Mr. Gardner?

A Mayor of the City of Erie.

Q Prior to being Mayor of Erie what was your occupation?

A College professor.

Q Mayor Gardner, when did you become mayor?

A I took over in January, immediately after Flately was sentenced. I served the balance of his term, one year.

Q Therefore, were you in a position to know of the comments, pro and con, in the police department or among the public, in respect of the commutation of Mayor Flatley's sentence?

A Yes, sir.

Q What can you say to us that would enlighten the Committee on that subject?

A I heard some people that were against it and some people that were for it. As a matter of fact, I can state that in the City Hall proper, which has approximately 1100 employees, that they circulated a petition requesting that he be released.

Q Some question has been made as to whether police morale was affected by the commutation of Mayor Flatley's sentence. What comment have you on that?

A There was a complete reshuffling of the whole police department as far as supervisory talents were concerned, and I feel that in general there was no reaction—maybe with the exception of a few. The one specific case that was mentioned I believe was Mr. Foster, who was a patrolman at the time when this whole case occurred. He performed a great service for the City and I appointed him as inspector in the police department, I promoted him, put him in charge of the detective division, put him in charge against vice, and he was diligently working at that particular task at the time this happened—that is, when Flateley was discharged.

Q Now, Mr. Mayor, there has been testimony by a Mr. Sullivan that you had a conversation with him right after the elections of 1955, with the Governor of Pennsylvania. It has been testified that you told Mr. Sullivan that the Governor of Pennsylvania, having congratulated you on an election victory, then went on to ask you as to what public sentiment would be if Mayor Flatley were released. First, did you have any such conversation with the Governor of Pennsylvania?

A No, sir.

Q Do you know Mr. Sullivan?

A Yes, sir.

Q How long have you known Mr. Sullivan?

A I don't believe I was acquainted with him prior to my becoming Mayor. I just knew him by name, that was all.

Q Was he a person whom you would call to secure advice as to public sentiment or any other matter in which you were interested?

A No, sir, he is not the type of person that I would confide in, no, sir.

Q Did you have any conversation with Mr. Sullivan in which you stated that the Governor had called you and had asked you what public opinion was, as to the release of Mayor Flatley?

A No, sir.

Q Have you ever had any differences with Mr. Sullivan that might help to explain why he would speak to the contrary of what you are now speaking?

A Yes, sir,—

CHAIRMAN TOMPKINS: Just a minute. Are we trying to impugne Mr. Sullivan's testimony here?

ATTORNEY GENERAL McBRIDE: Sure.

CHAIRMAN TOMPKINS: Proceed.

THE WITNESS: Yes, sir. Mr. Sullivan was fired from the Erie Daily Times, our local newspaper, of which he was the editor. At the time he was fired he called me to ask for a job. I believe that he was out of work somewhere around 7 or 8 months and during that period he probably called me three or four times a week requesting me to put him on as a worker in my department. I think in one of the conversations he mentioned that he would be willing to start as a laborer because he was about to lose his home and everying else, and he requested that I give him some kind of job, which I did not do.

Q At what college did you teach?

A Gannon College.

Q Is that a boys' college?

A Yes, sir.

Q Have you run into any evidence that the views of Erie officials were corrupted or influenced by the action of the Board of Pardons in the Flatley or other cases?

A No.

CROSS-EXAMINATION

BY MR. KOHN:

Q Do you recall receiving any call from Governor Leader after the elections of 1955, with regard to anything?

A I believe he called me to congratulate me on my election, yes.

Q What was the date of that?

A I'm sure I don't know.

Q It was right after the elections, wasn't it?

A That may be so.

Q You did receive a call from Governor Leader?

A Yes, sir.

Q Well, now, Sullivan was quite active about this time, wasn't he? He wrote this article of August 7. You have seen that, haven't you (handing article to witness)?

A Yes, sir.

Q You and he were good friends before that time, that was before he was out of a job?

A I wouldn't say that.

Q Had you had any differences?

A Yes.

Q What were they about?

A Well, specifically, after all he was the editor of the paper and his philosophy and mine did not match and frequently he took attack upon my philosophy.

Q And did his philosophy and yours match in regard to his attitude towards Mayor Flatley? At this time I am talking about now, in August of 1955.

A Did they match?

Q Yes, I mean did you agree with that article?

A Not particularly.

Q You thought Flatley should stay in, didn't you?

A I didn't express myself one way or the other.

Q You didn't?

A No, sir.

Q Did you allow your stationery to be used for someone else to express himself?

A No, sir, I never allowed that.

Q You wouldn't allow such a thing?

A It might have happened without my knowing about it.

Q I'm asking you if you had knowledge of it would you have stopped it if you were not in accord with it?

A Yes.

Q Who was your secretary at that time?

A Robert Hickey.

Q Therefore, then, it would surprise you to have Mr Hickey use your stationery—this is your stationery, isn't it (handing papers to witness)?

A Yes.

Q Is that your stationery?

A It is also his.

Q He uses it and you know about it?

A Yes.

Q A copy of that would be in your files?
A I don't have it in my files, no, sir.
Q Who would have it?
A Probably Mr. Hickey?
Q Did Mr. Hickey work for you?
A He is secretary to the Mayor
Q Does he work for you?
A Yes.
Q Besides the position of professor prior to being Mayor, what other position did you hold?
A City assessor.
REPRESENTATIVE BELL: Are you going to introduce this letter?
MR. KOHN: I don't think it is necessary unless you want me to do so. I just want to find out how it came into the files.
ATTORNEY GENERAL McBRIDE: It's not the Mayor's letter, is it?
MR. KOHN: No. It's the secretary's letter on his stationery. I don't think it should go in.

BY MR. KOHN:

Q What did you say the date of this phone call was?
A I didn't say.
Q Oh, you didn't say. How soon after the elections would you think it was?
A I'm sure I don't know.
Q Therefore, Mr. Sullivan testified that you had gotten a call from Governor Leader. Where would he have gotten that information?
A I'm sure I don't know.
Q That at least is correct, that part of the statement?
A Yes.
Q What part isn't correct?
A The statement in which he stated that I requested from him an opinion as to whether I talked to the Governor.
Q That was correct, though, wasn't it?
A What's that?
Q That you had talked to the Governor?
A I talked to the Governor, yes. Now, the only thing I know now is what I read in the papers.
Q This is after election?
A That's right
Q When was the election?
A I don't know the exact date. It was in November but I don't know the exact date.
Q First week or second week?
A What is it? Second Tuesday of November? I really don't know.
ATTORNEY GENERAL McBRIDE: First Tuesday after the first Monday.

BY MR. KOHN:

Q Would it be before the 14th of November?
A I can't tell you the specific date.
Q It could have been right before the 14th of November, could it?
A It might have.
Q When did the Governor call you previous to that time?
A Previous?
Q Yes, previous to this particular occasion when did he call you before that at any time?
A I couldn't remember that.
Q Has he ever called you since?
A Yes.
Q When?
A Specific dates? I could never tell you.
Q Just approximately. That was only in November, 1955. When did he call you since that time?
A He has called me many times since then.
Q He has called you many times?
A Yes.
Q He never asked you what the opinion of your town would be in regard to releasing Mayor Flatley?
A No, sir.
Q You never discussed the case with him?
A There is one conversation we had concerning it. This might be where the confusion exists.
Q In whose mind?
A I don't know.
Q Yours or Sullivan's?
A Sullivan's.
Q You wouldn't know where he would get any confusion if you never talked to him about it?
A No.
SENATOR YOSKO: Let him make the statement he wants to make.
MR. KOHN: Yes.
THE WITNESS: After Flatley was released I went to Washington, D. C. While I was there, Flatley was placed on a job on the State payroll, working for the Highway Department. When I got back the Governor called me—

BY MR. KOHN:

Q Let's get the date, please. When did you go to Washington?
A It was in February sometime.
Q What year?
A Let's see, if this was in 1955, it must have been 1956.
Q February of 1956?
A Yes.
Q Go ahead. I'm sorry to have interrupted you.
A At that particular time he asked me how that possibility could have happened.
Q Who is that?
A The Governor. I said I'm sure I don't know because I was in Washington, D. C. He says, "Is there any way you can get him off the job? We don't want him working."
Q He asked you to get him off the State payroll?
A That's right.
Q And he also asked you how it could have happened that he got on the State payroll?
A That's right.
Q What did you tell him as to how it happened?
A I didn't know.
Q He asked you to explain to him how the man got on the Governors payroll?
A Yes.
ATTORNEY GENERAL McBRIDE: Not the Governor's payroll.
MR. KOHN: State payroll.

BY MR. KOHN:

Q State payroll?

A Yes.

Q What did you tell him as to what you were going to do about getting him off?

A I said I would do what I could about it.

Q What did you do about it?

A I got him a job working at a car agency, selling cars.

Q You got him a job working for a car agency?

A Selling cars.

Q Did you contact Flatley then and ask him to resign from his State job?

A No, sir.

Q How did he get off the State job?

A I called the Highway Department head, his name was Mr. Pope, I told him there's another job available. When Flatley went down for an interview they hired him.

Q How did Flatley get on the payroll?

A He was appointed by Mr. Pope.

Q When?

A The date?

Q The approximate date. This is February. He got out in November sometime. Approximately how long did he work?

A I don't know how long. It must have been sometime the early part of February.

Q Do you have something to do with getting jobs in your county?

A No, sir.

Q Why would the Governor pick you out to worry about the Flatley position?

A I think that would be only natural.

Q You didn't put him on, did you?

A No, sir.

Q Why wouldnt you get after the person who endorsed him to have him put on?

A I don't know about that.

BY SENATOR SCOTT:

Q Did you tell Mr. Sullivan about that phone conversation with the Governor?

A Not that I remember.

Q How would he be confused about it then if he didn't know about it from you?

A I don't know. See, it became common knowledge as I understand, in the community that something was done to take Flatley off this job and that perhaps I might have had something to do with it. It became general knowledge, and it might have got back to him, I don't know.

Q But you and Mr. Sullivan never discussed it?

A No, sir.

Q Either in this phone conversation or the one where the Governor called to congratulate you?

A No, sir. I say this, sir, that it might be that he discussed with me the fact that the Governor congratulated me, I dont know about that, but the balance of the conversation I don't believe I ever talked to him on that basis. I would never confide in Mr. Sullivan on that basis.

BY REPRESENTATIVE BELL:

Q Mayor Gardner, I want this very clear. Do you deny having a conversation with Mr. Sullivan concerning a congratulatory telephone call from Governor Leader wherein Governor Leader went on and asked you the public's reaction to releasing Flatley?

A Yes.

Q You are positive?

A Yes.

REPRESENTATIVE BELL: Mr. Chairman, we have a statement by Mayor Gardner, and we have a statement by Mr. Sullivan. Somebody is not telling the truth.

CHAIRMAN TOMPKINS: Let's interrogate further.

BY CHAIRMAN TOMPKINS:

Q Did I understand in the course of your testimony that you said that the Governor did ask you what the public reaction might be or would be in Erie should he commute the sentence?

A No, there was no conversation with the Governor on that particular basis, no, sir.

Q At the time that you say right after the election that you talked to Mr. Sullivan over the telephone, did you call him or did he call you?

A I am sure I don't know. How long ago is that? That's 16 months ago, and I'm sure I couldn't tell. I couldn't say.

Q Do you know what hour of the day it was, Mr. Gardner?

A No, sir.

Q Do you know whether it was at your home or at your office?

A It was at the office, I suppose, if there was a phone call.

Q Did the Governor ever get you out of bed early in the morning with a telephone call?

A No, sir.

BY SENATOR SCOTT:

Q Do you think it would be an improper question for the Governor to ask you what the public reaction would be in Erie?

A No, I don't think it would be.

BY MR. KOHN:

Q Mr. Sullivan was still working on the paper in 1955?

A Yes.

Q So there was no reason for animosity between you and him?

A No.

Q So there was nothing wrong in calling the Governor?

A I don't suppose so.

Q Why did you call him—

A I say I don't remember whether Sullivan called me or I called Sullivan. That's 16 months ago.

Q You remember talking to him?

A I dont remember. I get many phone calls during the course of the day.

Q You stated specifically here what the Governor discussed and did not discuss. How can you remember that?

A I think that's important enough that I would remember.

Q You think it is important now. Did you think it important enough then to make a note of it?

A I imagine I would.

Q When did you talk to Sullivan, the day before or after, do you recall?

A No.

Q So you wouldn't recall what the conversation was, you and he talked many times?

A Probably so.
Q Not probably. Is it or isn't it? You are under oath.
A That's right.
Q What do you mean probably so then?
A Probably so.
Q Have you talked to him many times during the time he was editor-in-chief?
A Are you talking about on the average of once a week, once a day?
Q Suppose you tell us.
A I think he probably called me maybe once every two days.
Q For news?
A For news.
Q And you discussed many things with him?
A Primarily news.
Q And you didn't discuss whether or not it would be a good thing to let Flatley out now or wait until later?
A No, sir.
Q Never discussed it?
A No.
Q You never discussed the Flatley case?
A We might have discussed the Flatley case.
Q Do you recall?
A No, sir.
Q But you might have discussed it?
A Might have.

BY REPRESENTATIVE BELL:

Q I am going to come back to this telephone call. You are absolutely sure that you had no conversation with Mr. Sullivan concerning a telephone call from Governor Leader wherein Governor Leader congratulated you on your election and then went on to discuss the Flatley case? You had no conversation with Mr. Sullivan on that telephone call?
A No, sir.
REPRESENTATIVE BELL: There was sworn testimony on March 6 which Mr. Sullivan gave which was in direct opposition to Mr. Gardner's testimony about the telephone call. I would like both parties to be submitted to a lie detection test in the presence of our counsel and Mr. McBride, or whomever Mr. McBride might designate, so that we can determine who is telling the truth.
CHAIRMAN TOMPKINS: We'll take that up in executive session and make a determination.

BY SENATOR YOSKO:

Q Mr. Gardner, since you testified and you are still under oath, that you did not think it improper for the Governor to ask such a question if he would ask—
A No, I don't.
Q There would be no reason for you to deny it if he did ask the question?
A That's right.

BY ATTORNEY GENERAL McBRIDE:

Q What job did Flatley have in the Highway Department that you got him out of and got him some other job?
A As a laborer, I believe.
Q Is that one of those things that is handled locally?
A Yes.
Q Was the man you mentioned from the Highway Department the local man?
A Yes, sir.
Q He wasn't here in Harrisburg, was he?
A No, sir.

BY CHAIRMAN TOMPKINS:

Q Did you intercede for Mr. Flatley through Mr. Pope to get this job, do you recall?
A No, sir.
Q You had no—
A I had no knowledge of it before it was made.

BY ATTORNEY GENERAL McBRIDE:

Q As to your relations with Mr. Sullivan, do you know whether or not Mr. Sullivan held it against you that you had gotten him fired from his job?
A The facts of that are that his daughter accused me of that, yes.
Q Accused you of getting him fired?
A Yes.
Q Did you have anything to do with having him lose his job?
A I am not sure about that, sir. I might have.
Q Did you have a conversation with his boss, the editor?
A Yes, sir.
Q What was the nature of that conversation which may have influenced his losing his job?
A First of all, the reason why I talked to the owner of the newspaper was because I had heard after my election that one of the men in my party had paid Mr. Sullivan a sum of money, approximately $600, for the purpose of leaving any unfavorable publicity out of the paper as far as I am concerned—

BY CHAIRMAN TOMPKINS:

Q What was that?
A —for the purpose of leaving any unfavorable publicity out of the paper as far as I am concerned.

BY ATTORNEY GENERAL McBRIDE:

Q Continue.
A I told that to the owner of the newspaper. He retorted to me that it's peculiar that just several days before a friend of his, with whom he would trust any details of his business, had reported to him that the moneys that were collected from this bribery scandle was also shared by Mr. Sullivan, not so much by moneys, but also in terms of goods.
Q What kind of goods?
A As I understand it, he had some rugs bought for his house.
Q What else?
A A television set.
Q What else?
A An aerial, and some tile for his home.
Q Floor tile?
A Floor tile, yes.

BY SENATOR SCOTT:

Q Was this somebody making a statement to this effect?

A Yes.
Q Can you identify that person?
A This is the owner of the newspaper that made the statement to me about the fact that he had heard that his editor had participated in this particular action.

BY CHAIRMAN TOMPKINS:

Q What is that editor's name?
A George Meade.

SENATOR YOSKO: Mr. Chairman, all of this testimony is very interesting, but what does it have to do with investigating the Pardons Board?

ATTORNEY GENERAL McBRIDE: It has this to do. Mr. Sullivan was a witness, and Mr. Sullivan's credibility is before the Committee, whether he has motives or doesn't.

BY ATTORNEY GENERAL McBRIDE:

Q Was it Mr. Meade who mentioned the rugs, television, or someone else?
A No, sir, somebody else.
Q Mr. Meade did not go into these details?
A Yes.

BY SENATOR SCOTT:

Q Who was the somebody else?
A The day after the thing broke in the newspapers about my supposedly having a conversation with the Governor—

BY MR. KOHN:

Q That's within the last week or so?
A Yes—there was a phone call received by my office. The secretary, Mr. Hickey, took the phone call. The phone call was for Mr. Schwartz, who is one of the men in this case. Mr. Schwartz said that he had all this evidence and he wanted to give it over to show that these particular purchases were made and then he did share in the total amount of money collected in this matter.
Q Mr. Schwartz was one of the persons who was convicted of bribery?
A Yes, sir.

BY ATTORNEY GENERAL McBRIDE:

Q And Mr. Schwartz' statement is that Mr. Sullivan, the witness who testified here, got part of this in conversation for rugs, television, floor tile?

BY CHAIRMAN TOMPKINS:

Q Why didn't Mr. Schwartz give this information to the district attorney before this?
A I'm sure I don't know, I don't know about that.
Q You know you are making a very serious accusation here, Mr. Mayor?
A Yes, sir.
Q Do you know the consequences of it if it should be followed through?
A Yes.

BY REPRESENTATIVE BELL:

Q Have you taken this matter to the district attorney of Erie County?
A No, sir. I just heard about it just the other day.

BY MR. KOHN:

Q What day was that?
A It was Sunday—well, wait, it was Monday I heard about the conservation—
Q Give us the date of the conservation with Meade.
A Meade, that was—let's see, I can't remember the exact date.
Q Well now, it's not hard to remember back last week.
A Oh, no, wait a minute. The conversation with Mr. Meade was prior to Mr. Sullivan getting fired.
Q Wait, let's get the date. Sullivan testified last week, right?
A Yes.
Q Last Wednesday?
A Yes.
Q March 6?
A I don't know what the date was.
Q Well, last Wednesday or Thursday, right?
A Right.
Q The conservation you are talking about you had previous to this time?
A Yes.
Q Now, as a result of that conservation did you contact Schwartz?
A No, sir.
Q Then how do you account for the fact that Schwartz came to you while volunteering this information when he didn't know you talked to Meade or anybody else about it?
A What do you—
Q Just answer the question.
A I don't know.
Q He just came to you out of a clear blue sky, he hadn't talked to you?
A No, sir.
Q What connection do you have with Schwartz now?
A None.
Q Schwartz came to you?
A Yes.
Q Why would he come to you?
A I don't know.
Q Are you on good terms with him?
A Wait. He came to my secretary.
Q When?
A On the day that this broke in the paper.
Q He came to your secretary?
A He called my secretary, yes.
Q He wanted to come to you to accuse Sullivan of taking money?
A Yes.
Q Actually, the original accusation was quite some time age that Sullivan was getting a thousand dollars a week while this was going on; didn't you hear that?
A No, sir.
Q Never heard that before?
A No, sir.
Q Never heard—
A Listen, I heard rumors he had gotten something but as to the thousand dollars a week, I cannot say that.
Q Schwartz came to you to tell you about this matter?
A Yes. He went to my secretary.

BY SENATOR SCOTT:

Q Did you ever talk to him personally about it?
A Yes.
Q He contacted your secretary first?
A Yes.
Q By phone?
A By phone.
Q Was it—

A I called Harrisburg first and informed them as to the story and asked them what should I do with it. They said, "You bring down whatever evidence is available and we will evaluate it." That was Monday that I was told that. So I told my secretary to get in touch with Mr. Schwartz because I made it a point not to have anything to do with any person that was connected with this particular bribery scandal. I said, "Get the evidence and bring it in." Mr. Schwartz said, "I can't give the evidence without telling the story." Monday evening Mr. Schwartz came to my house and gave me the full story .

Q Any evidence?
A He didn't give me the evidence.

Q And the story was what?

A The story was he had paid Sullivan bills for rugs, television sets, aerial and tile in his home.

Q Did he tell you when he had made those payments?

A No. I believe the bills he has would probably prove that. He didn't tell me what it was but it was during the time this thing was going on.

Q Did he show you how many bills he had?
A No.

BY MR. KOHN:

Q Did you call the district attorney?
A No.
Q Why not?
A I was coming down next morning.

Q Didn't you want to go to court to find out what was going on?
A Yes.
Q You didn't notify the district attorney?
A No, sir.
Q You were holding that back for this hearing?
A Not particularly—

Q What do you mean not particularly? You didn't did you?

A I came down here at their request and I talked to the Attorney General.

Q Why did you hold it back? That was last Monday.

A Attorney General McBride said, "Bring it down and we'll appraise it."

Q Appraise what?
A The evidence.

BY CHAIRMAN TOMPKINS:

Q Why should you bring it to the district attorney? Why not bring it to Harrisburg?

BY ATTORNEY GENERAL McBRIDE:

Q There was only 24 hours difference, wasn't there, Mayor?

A That happened Monday night. I left Tuesday morning on the plane 8:20 to come down here. I was down here ever since.

BY REPRESENTATIVE BELL:

Q This Hickey, how long has he been employed?
A Nine years.
Q Was he Mayor Flatley's secretary?
A Yes.
Q Good friend of Mr. Schwartz?

A Good friend of Mr. Schwartz? I don't know about that.

Q Are you familiar with the testimony that has already been before this Committee, to the effect that Schwartz would go into the Mayor's office and practically run the City for him?

A No, I am not familiar with that.

Q Are you familiar with the close relationship that existed between Mayor Flatley and Mr. Schwartz?

A Yes, sir.

BY MR. KOHN:

Q One other question. You retained Hickey, of course, did you not?
A Yes.

A I think you said that Mr. Meade said that he got this from a trusted informer, is that right?

A Yes.

Q Did you find out later that this trusted informer was Schwartz?

A I don't know anything about that.

Q You don't know who Meade got that from?
A No, sir.

Q When did you have this conversation with Mr. Meade?

A I don't know the exact date but it was just prior to his leaving the newspaper, whenever Mr. Sullivan left the newspaper that's when this happened.

Q That was quite some time ago?

A Yes, I think he was out of work seven or eight months.

Q Well, he was still the editor-in-chief in 1955?
A Yes.

Q And this conversation you are talking about was how long ago?

A I could say more than eight months ago.

Q Was it before November 14?
A I don't remember that.
Q Was it after November 14, 1955?
A It was prior to Mr. Sullivan being fired.

Q Was Mr. Sullivan fired right after you had the conversation with Meade?

A About a week or so afterwards.

Q So during that time at least, and around August and in November, for quite some few months thereafter, you would have a conservation with Mr. Sullivan at least two or three times a week?

A Yes, sir.
Q And you are still good friends?
A Yes.
Q What caused your friendship to cease?
A Restate the first question.

Q I asked you whether or not Mr. Sullivan was still the editor-in-chief in November of 1955.

A He was.

Q He called you between that time and the time he got fired, six months elapsed?

A Yes.

Q He called you two or three times a week to discuss matters with you?

A Yes.

Q In fact, you talked to him right after the election of 1955, when the Governor called you?

A Yes.

Q You were still good friends?

A Yes.

Q And you discussed many matters with him?

A I wouldn't say we were good friends.

Q At least he called you enough times to discuss matters of import to you and the newspaper?

A The point that I want to make, in politics, no matter what you think about a newspaper editor, you don't express yourself.

Q You are then familiar, as a college professor, with political operations, is that right?

A Well, no. My major was not political operations.

Q I don't mean that. I mean you are familiar enough that you don't trust the editor, talk too much?

A That's right.

BY SENATOR SCOTT:

Q Mr. Mayor, did you testify earlier that Mr. Sullivan has been calling you since he was fired, asking you to put him on the payroll?

A Yes, sir.

Q Even though he felt that in his mind you were the one that had him fired from the newspaper?

A Yes. Now, I am only attesting to what his daughter reported to my city treasurer, that she accused me of having him fired from the job, and the city treasurer talked to her about it and he reported back to me.

Q Did Mr. Sullivan and you ever have conversations about what was the cause of him being fired?

A No, sir. This is the first anybody knows that I ever talked to Mr. Meade.

REPRESENTATIVE BELL: Wait a minute, I'm mixed up.

BY REPRESENTATIVE BELL:

Q You are talking about a daughter. Whose daughter?

A Mr. Sullivan's daughter.

BY ATTORNEY GENERAL McBRIDE:

Q One other question. When you say when this story broke, you mean the story about Mr. Sullivan's appearance in Harrisburg?

A Yes.

Q Did that story contain Mr. Sullivan's name?

A Yes.

Q It contained also the substance of what Mr. Sullivan testified to as to a conversation with you?

A Yes.

Q Was it after that that Mr. Schwartz called your secretary?

A Yes.

BY MR. KOHN:

Q You knew Mr. Carney, did you?

A The lawyer, yes. There are two of them.

Q Ed Carney, I think.

A Yes.

Q Did he come to you and talk to you about the fact that Flatley might be released 11 months and a few days instead of one year?

A I don't recall any conversation like that.

Q Did you talk to Ed Carney quite a lot?

A Yes, Ed Carney and I are friends.

Q If Carney went to the District Attorney, Mr. McLaughlin, and said that he had a conversation with Mr. Sullivan, that the Governor had inquired about whether or not Flatley should be let out, do you think that Carney would be telling the truth?

A He would be attesting to what Mr. Sullivan said?

Q That's right.

A I imagine he would, Mr. Sullivan is a reliable man.

Q I was wondering whether Carney talked to you about it because of the fact he went to McLaughlin and said he know about this conversation.

A No, he never talked to me—

Q That still doesn't refresh your recollection?

A He never talked to me about it.

MR. KOHN: All right.

CHAIRMAN TOMPKINS: Any further questions of this witness?

ATTORNEY GENERAL McBRIDE: No further questions.

(Witness excused)

MR. KOHN: Mr. Sullivan requests an opportunity to take the stand.

CHAIRMAN TOMPKINS: I think Mr. Sullivan should be given an opportunity to take the stand.

ATTORNEY GENERAL McBRIDE: Is there any reason why he should go on before my witnesses?

SENATOR SCOTT: Mr. Chairman, because the time schedule was drafted and redrafted to suit my convenience more than anyone else, an agreement was made that we would conclude after hearing the Mayor. I feel that I am in a position that I must abide by that time schedule. The fact that the accusations are made will give Mr. Sullivan an opportunity to answer next week. But I for one must abide by the time schedule we agreed upon.

REPRESENTATIVE BELL: In view of the serious nature of the charges, I think the full Committe should be here.

CHAIRMAN TOMPKINS: Very well. We did have the time factor, and we did agree with the General we would conclude today's hearing with the Mayor of Erie. Because the Pardons Board sits in its regular monthly session next Tuesday and Wednesday, there will be no hearings next week. Accordingly, these hearings are recessed until Wednesday, March 27, at 10 o'clock A. M., with an executive meeting at 9:30 that same morning.

MR. SULLIVAN: Mr. Chairman, I am familiar with the way newspapers operate. I have listened to Mr. Gardner's testimony this afternoon. The additional information that I have I think should be in order right now. I didn't expect my testimony last week to be denied. I have additional estimony, and since new matter has come up—

SENATOR SCOTT: Mr. Sullivan, you will be given an opportunity to testify, there is no question about that.

MR. SULLIVAN: The only thing is, I would like to have a full period to testify.

ATTORNEY GENERAL McBRIDE: The Board of Pardons was here, they wanted to testify, too.

SENATOR SCOTT: I am trying to keep the agreement made with the Attorney General. If he wants to waive it, all right. If you want to proceed according to your understanding—

ATTORNEY GENERAL McBRIDE: The Board of Pardons wanted the Lieutenant Governor to testify. We all want to testify. I would be the last on earth to stop Mr. Sullivan from testifying, but there is an orderly way we agreed upon, and I think we should stick to it.

CHAIRMAN TOMPKINS: We are not going to be the trier of the facts in this particular controversy which has arisen, but I do think that Mr. Sullivan should not be harassed nor distrubed in any respect until after such time he is first permitted to appear here and testify in his own defense.

ATTORNEY GENERAL McBRIDE: I missed that statement.

CHAIRMAN TOMPKINS: He should not be harassed nor disturbed in connection with these charges until such time as he has an opportunity to appear before this Committee and be heard.

ATTORNEY GENERAL McBRIDE: I agree with that thoroughly. Let me say another thing before you finally close.

If any member of this Committee feels that there is a question of fundamental fairness to Mr. Sullivan involved, if any single member says so, I waive all rights and agree that he be heard now.

SENATOR SCOTT: I am bound by an agreement with you which I intend to hold.

ATTORNEY GENERAL McBRIDE: If you feel Mr. Sullivan should testify now, I willingly and cheerfully waive that agreement.

SENATOR SCOTT: Then I suggest we leave it up to the Committee to decide whether we should hear Mr. Sullivan now. But I do want you to know, General, that I am perfectly willing to be bound by the agreement we made.

ATTORNEY GENERAL McBRIDE: I do know it and I appreciate it, but I waive anything at all.

MR. SULLIVAN, recalled:

DIRECT EXAMINATION

BY CHAIRMAN TOMPKINS:

Q Make your statement.

A Since my testimony of a week ago, I think it was last Wednesday, it has been denied in Erie by Mayor Gardner. I would like to reiterate that everything I said last week, to the best of my knowledge and recollection, is absolutely correct. However, to make certain that I had not made any mistake, I recalled that among those persons whom I had telephoned after talking to Attorney Edward Carney, counsel for Mr. Flatley, I contacted him last Thursday, that was the day after I testified, I reached him in Florida, and he told me this, that he does remember my telling him by telephone that the Governor had called Gardner relative to Flatley. The reason I called Mr. Carney, after talking to Mr. Gardner, was that he had called many times as a newspaper man, relative to whether or not anything had come over our wires in connection with the application for commutation, Flatley's application for commutation.

I might say I also discussed this with members of my family, my wife—my wife recalls that she called Mrs. Flatley's daughter, Mrs. Helen Shimmer, in Erie, and told her also of this telephone discussion which I had had with the Mayor of Erie, relative to the Governor calling Mr. Gardner to inquire into public opinion. I said, and I repeat, that it was on November 8, it was the day after election, a Wednesday, it struck me that getting this information, at least regarding the Governor calling Mr. Gardner to congratulate him, would appear in the newspaper which I edited. An examination of the Erie Daily Times for November 8, first page, will show that an article did appear that the Governor had called Mr. Gardner that morning.

On the Saturday following election, November election, 1955, there appeared in the Erie Daily Times—

BY ATTORNEY GENERAL McBRIDE:

Q When is this?

A Erie Daily Times on the Saturday following the November election, I think the election was on November 7 that year—it appeared on the—

Q Talk louder, please.

A On Saturday following the election in November, 1955, there appears in the Times, in the "Around the Town" column, that is the title, in bold print,—and just before I give the quotation I would like to say in my testimony a week ago on Wednesday, I said that Mr. Gardner had told me that the Governor had called him while he was still in bed that particular morning. I would like to give this quotation: "Mayor Gardner was still in bed Wednesday morning when he received a telephone call from Governor George Leader. The Governor had called to offer congratulations on Gardner's election triumph on Tuesday." That was on Saturday following.

To go back to November 8, that would have been a Thursday, I believe—no, a Wednesday—well, wait just a minute until I marshal my date here. I don't have an exact copy, but a story appeared on the front page of the Times on November 8, which said in substance that there were rumors and reports around the City that Flatley was going to be released, that the recommendation of the Pardons Board had been on the Governor's desk then for approximately a month. I think that I made a contact in Harrisburg through one of the news agencies, and therefore added this, "That when contacted, the Governor would make no comment, but might have something to say at his next press conference."

I have offered to obtain affidavits from persons who I know—

BY CHAIRMAN TOMPKINS:

Q Will you give us copies of those papers that you have read these excerpts from?

A They have them microfilmed. I was told if this Com-

mittee wants them, negatives can be taken from them and reprinted and they would be sent here.

Q We would like very much to have them.

A I have offered, as I said, to have affidavits from my family. I have been told that family affidavits aren't too good as evidence, and so far I have not bothered.

I might say that I have known Mr. Flatley for a long time. I knew him as a County Commissioner when I was covering the court house. I knew him naturally as a Mayor. To my family it was good news when Mayor Gardner told me during the course of that conversation that the Governor had called him to find out about public reaction. I assumed then that it wasn't going to be too long.

I seem to have a very faint recollection, too, that during that same conversation Mayor Gardner told me, "I have also called the other people and they are all right." At that time we had two newspapers in Erie. Since then they have more. The other paper was the Dispatcher.

Q Did you lose your job when the newspaper merged?

A Sir?

Q When the newspapers merged, is that when you became unemployed?

A No, I left before that. I left last May. The merger took place in December.

BY SENATOR SCOTT:

Q Mr. Sullivan, on the morning that you received this phone call, did you inform any of your associates on the newspaper that the Mayor had received a call from the Governor congratulating him, and also this other thing which you say was part of the conversation? Or did you keep it to yourself?

A No, I didn't keep it to myself. I might be incorrect about this, but since Mr. Meade's name has been mentioned here—

Q I am not interested particularly in the congratulatory part of it.

A No. I believe I called his secretary and told her of the conversation. I frequently did that. The reason I did was because Mr. George Meade had told me prior to Mr. Flatley's release, we had talked about it. Well, he inquired as to Mr. Flatley's status, and there was some conversation concerning it, when Flatley might get out and so on and so forth. I believe I am absolutely correct in saying that Mr. Meade told me, "Let's get him out,"—

Q After this conversation with the Mayor?

A No, with Mr. Meade.

BY CHAIRMAN TOMPKINS:

Q What did Mr. Meade mean by that remark?

A Well, if we can do anything to help him through the papers—that was my interpretation of it—let's do it.

Q You mean get Flatley out?

A Yes.

BY REPRESENTATIVE BELL:

Q Mr. Scott suggested the possibility of a lie detector. Would you be willing to submit to it?

A Positively, but I don't necessarily believe they are infallible.

Q But you would be willing to take the lie test?

A I would be willing.

ATTORNEY GENERAL McBRIDE: May I ask him a couple of questions now?

CHAIRMAN TOMPKINS: Yes.

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Sullivan, when you say you got this inquiry from Mayor Gardner inquiring what public sentiment would be, that would be good news item?

A Unless he asked me not to use it.

Q You never testified that he asked you not to use it?

A Mr. Gardner, who, incidentally, is a relative of Mr. Flatley—I don't know how close—and myself did talk about that, I know, about Mr. Flatley's being in jail. I am not positive that he asked me not to use it. But as a newspaper man, I would have used it unless I had been requested not to.

Q You didn't use it, did you?

A The following day, I have just testified.

Q The following day you testified that the Governor called him to congratulate him?

A No, the day after the election he called. But the day after that, a story appeared in the Erie Daily Times—

Q That the Governor called to congratulate Mr. Gardner?

A No, I think you are confused. I would like to clear it up for you. There were two notations in the Times. I think I testified that the one is the Saturday after the election, I read that quotation, it was in what we call the "Around the Town" column.

Q Well, did the paper at any time contain a story to the effect that the Governor of Pennsylvania called Mr. Gardner to ascertain public opinion if Flatley was released?

A No.

Q It didn't?

A No. But we did carry a story based on that information, but not saying that the Governor had called. But we did carry the story saying that there were reports that the release of Mr. Flatley had been indicated. That was carried on the front page.

Q If the Governor called Mr. Gardner to ascertain public opinion, you wouldn't consider that to be improper, would you?

A No. That is the reason I can't understand the fuss that has been raised about it. I might say I was an unwilling witness before this Committee. It was not my intention to testify against Mr. Gardner.

Q Let me ask you this. Since you couldn't consider it improper, why didn't you print it when Mr. Gardner told you that the Governor tested public opinion through him?

A I can only give you my opinion on that, that during the conversation, something was said, to say nothing about it.

Q You didn't tell us that before.

A I don't think I was asked the question.

Q Have you got any floor tile in your home?

A Yes.

Q When did you get it?

A We have had it, I would say, about—bathroom tile?

Q Floor tile.

A Yes, bathroom tile. About three years ago, 2 to 3 years ago.

Q Would that be during the time when this money was being illegally collected?

A I don't know.

Q Have you got a television?

A Yes.

Q Have you got a special antenna for long-range television?

A No, sir.

Q Have you got any—

A We had a television antenna, yes, but not—

Q When did you get your television?

A Well, on my birthday, December 23, I guess, 1955.

Q Money was being collected right around that time, wasn't it?

A I wouldn't know, I have no knowledge of money being collected.

Q Now, did you get some rugs right around the same time?

A Mr. McBride, I would like to explain this. We had—

Q Can't you answer a simple question, and then explain?

A What was the question?

Q The question is, did you get any rugs just around that time, too?

A We got no rugs. We got carpeting. I can explain that.

Q Let me ask—

A You said I could explain this.

Q Sure you can.

A I don't think you ought to browbeat me.

Q Go ahead.

A During this particular time, we were having a door in our living room closed and a bookcase built in. We were having a door which would lead to a hall which leads to our bedrooms opened from our dining room—in other words, we were getting a door out and putting in a bookcase. It was sort of an involved job, it took longer than we had expected. We decided that we would like to have wall-to-wall carpeting and have the bathroom tiled—a very cheap tile, incidentally, rubber type. My wife and my daughter went to a place called Stanley Brothers and purchased the carpeting, and went to a place called the Rose Rug Company in Erie, and purchased the tile.

Q Have you finished?

A Yes.

Q Was Mayor Gardner ever in your home?

A I believe not.

Q Any reason he would know that you had tile, or a television, or rugs, particularly the first two, unless somebody told him?

A Well, he might know if it of his own knowledge unless sobebody told him, that's correct.

Q When you same back here, you didn't take the trouble to deny that you got any money from Mr. Schwartz. Did you ever get any money from Mr. Schwartz?

A Absolutely no.

Q Never.

A Never.

Q Not a penny?

A Under any circumstances.

Q Would you take a lie detector test on that, too, would you?

A Yes, sir.

Q Did Schwartz pay for any of these items?

A Not to my knowelge.

Q Who did pay for them?

A After Mr. Schwartz went to prison—well, even before that we had a charge account at Stanley Brothers.

Q Did you pay for the television set?

A Yes, the television set was charged to us, with the exception that a friend paid $100.

Q Who is the friend?

A Mayor Flatley.

Q Who paid for the floor tile?

A We did, to the best of my knowledge. We are still paying as far as I am concerned.

Q To the best of your knowledge? Well, you would know, wouldn't you?

A I didn't get your question.

Q You say to the best of your knowledge, you did, that is, "we did," you said?

A Yes.

Q Pay for the floor tile?

A Yes.

Q How much did these items come to?

A Well, I don't know altogether. I have a bill in my pocket I just got from Stanley Company, which still carries a balance. We have been paying for it ever since.

Q Why didn't Mayor Flatley pay?

A I think it was, it was merely a suggestion, he told me about it afterwards.

Q You mean he paid it unknown to you?

A Yes, he did.

Q Anybody else pay anything unknown to you?

A No, sir.

Q He is the only one?

A Yes.

Q Schwartz didn't directly or indirectly pay a quarter?

A No. In fact, he couldn't have. I have a bill here dated March 7, 1957, which I have just received within the past week—and we still owe a balance of $145.36.

Q To whom?

A Stanley Brothers Furniture Company.

Q Is that Schwartz's company?

A Mr. Schwartz formerly worked for Stanley Brothers.

Q Isn't it his company?

A Oh, no.

Q Has he any interest in it?

A No.

Q Schwartz hasn't?

A No.

Q Did he ever have?

A (No answer)

Q Did he ever have an interest in this company at the time you contracted this bill?

A No, only a salesman.

Q When was the last payment you made?

A I would have to check our accounts, but I think it was just before I came to Harrisburg.

ATTORNEY GENERAL McBRIDE: That is all.

THE WITNESS: I would like to clarify that.

BY ATTORNEY GENERAL McBRIDE:

Q Go ahead.

A I think Dr. Shubert, who is Health Director in Erie, he is part owner.

Q Who are the other owners?
A I am not too sure.
Q Wasn't Schwartz a salesman?
A He was salesman.
Q But you didn't take this matter up with Mr. Schwartz?
A Take what matter up?
Q Anything you purchased from Stanley Brothers.
A My wife did, she went down and—
Q And took it up with Mr. Schwartz?
A Well, he was the salesman who sold my wife and daughter the rugs, the carpeting.
ATTORNEY GENERAL McBRIDE: I think that is all.

BY MR. KOHN:

Q You said, I think, that you wrote this article that you identified that is in the Board's files?
A Yes.
Q Was it after or before that you received $100 payment on account of your bill?
A Let's see. Mr. Flatley was still Mayor of Erie.
Q No, he was in jail at this time—let's get that—
A Well, it was before then.
Q Was he still in jail during that time?
ATTORNEY GENERAL McBRIDE: He said before he went to jail.

BY MR. KOHN:

Q Before he went to jail? Was he under indictment?
A No. Mr. Flatley was the Mayor of Erie, and apparently as a gesture, or gift, or whatever it was, he made this $100 payment.
MR. KOHN: That is what I wanted to get.

BY ATTORNEY GENERAL McBRIDE:

Q While the bribe money was being collected?
A I didn't say that.

BY SENATOR SCOTT:

Q Did he make that payment to you or directly to the store?
A I think directly to the store.
Q You don't know?
A He must have.
Q He didn't give it to you?
A No, sir.
Q How did you become aware of the fact that $100 had been paid on it?
A He told me, afterwards.

BY MR. KOHN:

Q Was it your editorial policy previous to this time to support the Flatley regime? You had always been with them, had you not?
A Well, not necessarily. Mr. Flatley was a personal friend of mine.
Q Did you support him personally?
A Yes.
Q You stated something about rumor being around that the commutation was lying on the Governor's desk about a month. Did you say that in answer to McBride?
A Yes, I had that information. I think I obtained that by ordering one of the news services which we had in Harrisburg.

MR. KOHN: I would like to read in evidence the notes of the official minutes, Executive Session of October 10, 1955:

"Executive Session to discuss cases from 1 to 12, inclusive, and 132 to 163, inclusive, was held on October 10, 1955, at 12 o'clock, Daylight Saving Time, in the office of the Board of Pardons. Following unanimous action was taken: Case No. 135, Thomas W. Flatley, granted, as of one year. Mr. Cohen voted no."

Could I call your attention to the special Executive Session which was held in the Board of Pardons November 14, 1955. Mr. Furman was the only member absent.

"Cases marked above were considered as well as the following:"—and below there are four cases listed.

Then comes this notation:

"At this time members present agreed to set the expiration date as of December 15, 1955, for the following: No. 132, September Session, Domenic Adiatori; 133, September Session, Ray Sullsovich; 135, Thomas W. Flatley. Change was made on the charters and Mr. Furman was so advised."

ATTORNEY GENERAL McBRIDE: Mr. Chairman, that is precisely the information, and that is the book I was talking about that we were going to produce in an orderly fashion by calling the members of the Board. I suggest that that is the best way to do it.
MR. KOHN: Mr. McBride, I don't think I have to abide by what you intend to produce.
ATTORNEY GENERAL McBRIDE: I know.
MR. KOHN: I think I have a right to prove the date of that particular action and in relation to this particular testimony.
ATTORNEY GENERAL McBRIDE: Please don't take me off by feet. I am just saying to the Committee that we agreed to hear this one witness through fairness. I told you this morning and told Mr. Cohen that we were going to produce this, and we were going to have the Board of Pardons explain this in an orderly fashion and back it up with their document.
SENATOR SCOTT: Mr. Sullivan has to be heard on reasons that were brought out here this afternoon. We gave him that right to be heard and I don't think there is anything else.

BY SENATOR YOSKO:

Q Mr. Sullivan, I think you testified you never got money or goods that might have been purchased for you or your home, or otherwise, from Mr. Schwartz; is that right?
A That's correct.
Q Did you get any money or any goods in the form of furnishings or anything else from any of the other 18 defendants, or anybody connected with them?
A No, sir.
Q Did you know when you were with the papers that the rackets were operating?
A I found it out for the first time—oh, I don't mind telling you this. I heard that the District Attorney was working on something important and I called Mr. Johnson, Assistant District Attorney at that time. I called him and asked him if he would stop in my office. He did.

This might have been—oh, maybe a month before the arrest actually took place. He said they were working on something, and after considerable talking he wouldn't say exactly what they were. I had the idea it might have something to do with dope. He said he doubted it. He did say when it was ready, that I would receive the information.

Q Mr. Sullivan, isn't it generally known in the community when rackets are operating?

A Well, I don't play numbers.

Q I didn't ask you whether you played. I asked you whether you knew whether the rackets were operating in the City of Erie.

A I had heard stories that you could buy numbers in Erie, that you could probably buy liquor on Sundays if you knew the right places, that you could place a bet on a horse. But I had no definite knowledge that it was taking place.

Q As a newspaper man, did you ever write a story, or did you ever attempt to find out for your own personal knowledge so that you could write a story, on whether or not rackets were operating in Erie?

A I think that many times during my career I tried to find out about what was going on in Erie, racket-wise, yes. I didn't receive any information on which you could put your finger on it.

Q I am talking about during the period the rackets were operating, where the defendants who were raided subsequently went to jail and are now the subject of Pardons Board hearings. I am talking about that period.

A No.

Q You never wrote any stories about it?

A I was positively shocked when I discovered that the Mayor was about to be arrested.

Q I am not talking about whether the Mayor was connected with it or not. Did you know that the rackets were operating?

A Well, no. I couldn't say that I knew that they were.

Q You live in the City of Erie, though?

A Yes.

Q And you never wrote any stories about their operation?

A I don't think I did. I may have. I am not sure.

SENATOR YOSKO: All right.

BY CHAIRMAN TOMPKINS:

Q Do you know whether Flatley made the payment of $100 on your television set before the time that he spoke of the exposure on the graft charges?

A Yes. Up to that point he was the Mayor of the City of Erie—

Q I mean was that payment made prior to the time of the exposure of the graft cases?

A Yes.

BY SENATOR YORKO:

Q When you were told by Mr. Flatley that he paid the $100, did you ask him why he paid it?

A Just a gesture, I remember him saying it. It could have been a Christmas gift. I got the television set as a birthday gift from my wife and children.

BY REPRESENTATIVE BELL:

Q Mr. Sullivan, did you have any knowledge or means of suspecting that that money came from the graft money?

A Positively not.

BY ATTORNEY GENERAL McBRIDE:

Q Is it usual for politicians to give editors of newspapers $100 without explaining what they give it to them for?

A Well, he asked for nothing in return. If he had, he wouldn't have received it, I would have refused it. He didn't give me $100. He made a payment.

Q But it advantaged you to the extent of $100?

A Yes.

Q There was no reason for him to do it?

A Perhaps I handled Mr. Flatley's publicity when he ran for Mayor.

Q Did you get paid for that?

A Yes.

Q But was that just out of a clear blue sky when he went to the place and paid $100 on account of your indebtedness?

A Yes, or arranged to have it paid.

Q How did he know you were buying a television, how did he know to go there and pay it?

A The only way I know is that he probably had knowledge through Mr. Schwartz.

Q How did Mr. Schwartz know?

A He worked for Stanley Brothers.

Q Mr. Schwartz told Mr. Flatley that you were buying some material at Stanley Brothers, and that moved Flatley to put up $100 on your account?

A Not that I was buying it. I didn't even know it was bought. My wife had bought it as a surprise birthday gift.

ATTORNEY GENERAL McBRIDE: That is all.

BY REPRESENTATIVE LOPRESTI:

Q You testified that you could see nothing wrong about such telephone conversation, if there was one, is that right?

A That's right.

Q What prompted you to appear as a witness to tell this story if there was nothing wrong with it?

A Two or three weeks ago I was talking with District Attorney Johnson and I asked him in a casual way, I said—well, we brought up the subject of the investigation—"Do you think anything will come of it? Do you think you are going to be able to do anything or show anything?" We went on from there, and I repeated to him that the only thing I know about it, I said I don't think it would mean one thing one way or another, is that the Governor did call Mayor Gardner to find out what public opinion would be. Then I was summoned—not summoned, excuse me. I was called to where the Committee room was, and asked about that, and I said I did not want to become involved.

Q Called by whom, sir?

A I think Herb might have told Mr. Kohn. That is why I say I was an unwilling witness.

Q At the time you testified here the other day, were you testifying to something that you thought was wrong and have changed your mind since, or didin't you think it was wrong at that time?

A When I said I didn't want to testify, I was told, "Well, you will probably be served with a subpena." I didn't think anything more about it.

Q As of now then, if there was such a telephone call, you don't think it was wrong—

A You mean by the Governor?

Q Yes.

A. No. I think if I were the Governor, I might have made the same kind of call.

Q So actually, in your opinion, your testimony so far as this Committee is concerned, amounted to nothing other than a newspaper headline, is that right?

A Well, I think I will leave that up to the Committee.

Q I am asking your opinion. Since you say and admit that there is nothing wrong, doesn't it amount to merely a headline because there is nothing wrong with it?

A I don't think—

CHAIRMAN TOMPKINS: I think the Committee has the testimony. We can evaluate it.

BY SENATOR YOSKO:

Q What was your political affiliations when you were with the paper?

A My own personal—

Q Yes.

A Republican.

Q But you did publicity for Flatley?

A Yes.

Q Flatley was a Democrat?

A Yes. I did all kinds of publicity in a professional way.

BY REPRESENTATIVE LOPRESTI:

Q Let's inquire into that a little more. Did you accept compensation from the Mayor in addition to your salary as editor for the publicity?

A When the Mayor was running, yes.

Q Was that for publicity—

A When he was running for County Commissioner, too.

Q Was that for publicity in the news columns of your papers or paid ads?

A My advice was sought for, and if I recall correctly, I did some speech writing—not only for Mr. Flatley but various other persons.

Q Were you paid anything for your editorial comments in the paper?

A No, sir.

BY SENATOR YOSKO:

Q How much did Flatley pay you for handling his campaign?

A Various sums, I don't recall the total. It wasn't so much per week or anything like that.

Q What would the total amount to approximately during the campaign?

A Well now, during what? A whole year?

Q You run for about 3 months, 4 months.

A Sir?

Q For the period of the campaign, from the time he engaged you until the campaign was over.

A Maybe a couple of hundred dollars, but not in specific amounts.

Q The total would be a couple of hundred dollars?

A Approximately, yes.

CHAIRMAN TOMPKINS: There being no further questions, we will now recess until March 27, at 10 A.M.

(Hearing adjourned until 10 A.M., March 27, 1957.)

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing before the Joint Legislative Committee to conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same.

Vincent Varallo.

Reported by:

Vincent Varallo
Adelphia Reporting Agency
DeLong Building
Philadelphia, Penna.

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

AT HARRISBURG, PENNSYLVANIA

DATE MARCH 27, 1957

VOLUME VI

PATRICIA L. SAYER
P. O. Box 496
Harrisburg, Pennsylvania
CEdar 2-2832

INDEX

Board's Witnesses	Direct	Cross	Redirect	Recross
Roy E. Furman	965			
Robert L. Trescher	1032	1072	1094	1096
Roy E. Furman (Recalled)	1106	1109	1166	1169
Henry E. Harner	1181	1185		

EXHIBITS

Pardons Board	Identified and Received
Exhibit No. 23— Compilation of cases before the Board, January 1953 through December 1956	972
Exhibit No. 24— Recommendations of Judges and District Attorneys for January 1953 to December 1954	1106
Exhibit No. 25— Recommendations of Judges and District Attorneys for February 1, 1955 to December 31, 1956	1106
Exhibit No. 26— Rehearing Schedule and Certificate taken thereof by Mr. Hean	1106
Exhibit No. 27— Photostate entitled "Delaware— March, 1956"	1109

BEFORE

JOINT LEGISLATIVE COMMITTEE

TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURUSANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a.m., Wednesday, March 27, 1957.

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

VICTOR H. WRIGHT, ESQUIRE, Deputy Attorney General Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N, Front Street, Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel).

JAMES G. ARNOLD, ESQUIRE, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel).

CHAIRMAN TOMPKINS: The hour of ten having arrived, this committee will come to order.

At our last hearing we were dwelling upon some Erie County matters and several witnesses who were before this committee. We see no further purpose in deliberating with these witnesses or with matters that do not concern this investigation. However, there were certain issues raised at that time which the committee said it would take under advisement, and I have here a prepared statement in connection with those issues.

On Wednesday, March 13, 1957, a question was directed by the Honorable Clarence D. Bell, a member of this committee, to two witnesses, Arthur J. Gardner and Harold J. Sullivan, whether or not they would submit to lie detector tests in connection with conflicting and diametrically opposed testimony which they gave under oath before the committee. It was stated at that time the committee would take this matter under advisement.

The committee is of the unanimous opinion they have no legal authority to compel any such submission. Should the witnesses care to voluntarily submit to such tests, that is their privilege and they may file any results thereof with this committee.

On page 894 of the testimony, we find

TOMPKINS: Are we trying to impugn Mr. Sullivan's testimony here?

ATTORNEY GENERAL McBRIDE: Sure.

On page 914 of the testimony we find.

ATTORNEY GENERAL McBRIDE: Mr. Sullivan was a witness, and Mr. Sullivan's credibility is before the committee—whether he has motives or doesn't.

Because of the position taken by the Attorney General in this matter, it becomes impossible to certify the question "Was there perjury committed before the committee, and by whom?" to the Department of Justice for impartial consideration. However, to maintain and preserve inviolate the prerogatives and authority of a duly constituted legislative committee and operating as a coordinate branch of the government of the Commonwealth, this record will be certified to the District Attorney of Dauphin County for further attention.

Other matters charging participation in the benefits of bribe money in Erie County, Pennsylvania, will be certified to the District Attorney of that county.

We hereby serve notice this committee will not tolerate witnesses who take lightly their testimony under oath.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, may I say that I join with you in certifying the record to the District Attorney of Dauphin County. I think that that was the more proper place to defer such a question than to the Attorney General in any event.

CHAIRMAN TOMPKINS: Of course, we have always felt that the Attorney General's Department serviced the Legislature as well as the Administration.

ATTORNEY GENERAL McBRIDE: I do not feel it is conflicting but I feel that I could act impartially, but I am delighted that you refer to the district attorney anyway because he usually handles criminal prosecutions and I would probably end up asking him as I have in other matters. I have implicit confidence in him and I think the committee does, too.

CHAIRMAN TOMPKINS: Now General, you may produce your winesses if you are prepared to proceed.

ATTORNEY GENERAL McBRIDE: Thank you.

Mr. Furman?

BOARD'S EVIDENCE

MR. ROY E. FURMAN, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Furman, you are the Lieutenant-Governor of the Commonwealth?

A Yes sir.

Q And as such under the Constitution you are the Chairman of the Board of Pardons?

A Yes sir.

Q How long have you been sitting as a Member of the Board of Pardons?

A Our first meeting was February, 1955 at which I was a member.

Q Have you attended every meeting since?

A Yes sir.

Q Do you keep any record as to the time consumed during the open hearings in the Supreme Court chamber in the Capitol Building?

A Yes sir. I have made a practice to mark the time that the hearing started and the time that the hearings closed. I may have missed now and then but generally—

Q As to each application, have you kept a record of the beginning and the end of the hearing on that application?

A That is correct.

Q Are you familiar with the fact that the rules of the Board of Pardons allow fifteen minutes for each side in non-capital cases and thirty minutes for capital cases?

A Yes sir.

Q Now I ask you, Mr. Furman, in any hearing over which you presided, has any person no matter who that person might be, been denied the right to speak?

A No person has ever been denied. Every person who wanted to appear on a case was permitted to appear and had the time which they desired.

Q Was there anybody ever held down to fifteen minutes?

A No.

Q Was any person ever held down to any particular time or did each person have the full right to speak as long as he or she wished?

A Every person has had the right to speak as long as they desired and there have been times when the attorney in the case would have some other person who was not listed and they would ask if we would permit them to come up and speak on the case. And we have never denied that right, either.

Q Did you preside the day the Members of the Legislative Committee visited as guests of the Board of Pardons?

A Yes sir.

Q Was there any extended hearing on that day?

A There was. And we are sorry that the Members of the Board did not stay a little bit longer because we had a case there that was a very important case, and it lasted for a long time. We were sorry that the cases that were presented while they were there were rather short. I think they observed that no one was denied the right to say what he wanted to say at those hearings.

Q How long was that one case?

A I do not have my book here, but I think it was more than and hour. I don't have the book. That was in February. I could tell you exactly what it was.

BY CHAIRMAN TOMPKINS:

Q Was that a capital case, Governor?

A No, it was not a capital case.

BY ATTORNEY GENERAL McBRIDE:

Q Was it the case of Willie Green?

A That was the case.

Q Of Philadephia?

A Yes.

Q That was the case of a man who was contending that he was innocent even though imprisoned for ten or eleven years?

A That is correct.

Q Now Mr. Furman, has the Board of Pardons directed through you as its chairman that there be prepared by Mr. Hean, a comparison of the number of persons released by the Board during the two years of the present term and the two years preceding the present Board.

A Yes, the Board has directed the Secretary to make such a report.

Q Do you have such a report?

A Yes, I have a copy certified to by Frank R. Hean, the Secretary.

Q Is that a comparison during the years 1953 and 1954 as against the period 1955 and 1956?

A That is correct.

ATTORNEY GENERAL McBRIDE: I wonder if I might say to the Board that in putting this in it is not at all intended to indicate that the previous Board did anything wrong. To determine that, you would have to inquire into a lot of other things. We are only putting this in for the purpose of comparison to show whether or not this Board was unusually lenient. We do not intend it to be a reflection of the last Board or any other board.

CHAIRMAN TOMPKINS: Well, in that connection may I inquire is this a copy of the same report which the Governor transmits to the General Assembly?

THE WITNESS: I think the report that the Governor transmits to the General Assembly covers each case separately.

ATTORNEY GENERAL McBRIDE: That is right.

THE WITNESS: The same computation could be made from that report as I have here in my hand.

BY CHAIRMAN TOMPKINS:

Q This report should correspond to that submitted by the Governor?

A They should be absolutely the same.

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Furman, could you tell us generally what the report contains as to the type of cases and actions taken?

A This report includes the years 1953, 1954, 1955 and 1956. It lists by months the number of cases that we heard; the number of applications that we acted favorably upon. It lists them, for instance, murder in the first degree; other cases, capital cases, pardons and "p.v.", whether there was a parole violator; the subsequent history of the person released. Then the last column is the summary.

Q Mr. Furman, referring to that report, will you please inform this committe as to the year 1953 giving the total number of cases heard, the total number granted and the percentage that the total number granted bears to the total number of cases heard?

A In 1953, the total cases heard were 1,083. The total granted was 316. The percentage, 29.18.

Q Now on the list for 1953, that represents a composite total of the month by month and individual statement as to whether they were commutations, capital cases, and so forth for that whole year?

A That is correct.

Q Now will you turn to the year 1954?

A In 1954 the total cases heard were 1,281; the total granted was 451; the percentage was 35.20.

Q Both of those were by the previous Board, weren't they?

A That is correct.

Q Now as to the present Board, commencing with February, 1955?

A In 1955 the total cases heard were 978; the total granted were 205; the percentage was 20.09.

Q Then in 1956?

A In 1956 the total cases heard were 1,067; the total granted were 137; the percentage was 12.55.

BY REPRESENTATIVE BELL:

Q Governor Furman, do you have it broken down by months in the year of 1956?

A We have it broken down by months for all four years.

Q May I have it for the month of December, 1956?

A December 1956, there were 100 cases heard and ten were granted.

BY ATTORNEY GENERAL McBRIDE:

Q Ten per cent?

A Yes.

CHAIRMAN TOMPKINS: General, is this going to be marked as an exhibit and submitted for the record?

ATTORNEY GENERAL McBRIDE: Yes sir. I have finished the oral interrogation. I want it to be marked as an exhibit.

Four page document purporting to be a compilation of cases before the Board, January 1953 through December 1956—produced, marked for identification and received in evidence as Board of Pardons' Exhibit No. 23. AJP 3/27/57.

CHAIRMAN TOMPKINS: May I ask one question at this point, General?

ATTORNEY GENERAL McBRIDE: Sure.

BY CHAIRMAN TOMPKINS:

Q Does this compilation take in only those cases on which the Governor acted upon or does it also take in the cases in which the Board recommended and some cases which the Governor may not have acted upon?

A That has not happened in the period of time that I sat on the Board. I will have to ask the Secretary how those were listed.

CHAIRMAN TOMPKINS: We understand that during Governor Fine's administration there were several that were recommended by the Board which the Governor refused to follow through on the recommendation of the Board.

ATTORNEY GENERAL McBRIDE: I am informed that it does not include the term of Governor Fine and those which he declined to follow the recommendations of the Board.

BY ATTORNEY GENERAL McBRIDE:

Q Now Mr. Furman, did you also as Chairman of the Board of Pardons, and at the direction of the Board of Pardons, cause a compilation to be made of the number of re-hearings that were allowed?

A Yes sir.

Q During the comparable period of 1953 and 1955 under the one Board and 1955 and 1956 under the present Board?

A Yes sir.

Q Will you tell us the number of re-hearings allowed during the year 1953?

A In 1953, twenty-one were granted and thirty-one were refused.

Q In 1954?

A In 1954, fifty-eight were granted and fifty-eight were refused.

Q In 1955?

A Twenty-six were granted and sixty-eight were refused.

Q 1956?

A Twelve were granted and twenty-five were refused.

Q Has that been worked out on a percentage basis?

A No, I do not have that on a percentage basis.

BY CHAIRMAN TOMPKINS:

Q Did I understand, Governor, that in 1954 they refused all of the applications?

A No. Fifty-eight were granted and fifty-eight were refused.

CHAIRMAN TOMPKINS: I see.

MR. KOHN: One hundred sixteen altogether?

THE WITNESS: Yes.

BY ATTORNEY GENERAL McBRIDE:

Q Now since the 1955 record of re-hearings is an increase over 1956, what is the explanation of that?

A Well, I'll tell you. When this Board first started to sit, there were quite a number of applications coming in for re-hearings, and we decided that we should adopt a rule and enforce the rule a little more strictly. And in the case of a re-hearing there should be some special circumstance, new evidence or something that would warrant another hearing of the case and where it was taking too much time to hear a case one month and in a couple of months have an application for a re-hearing. That is the reason for so many of our refusals. And we have enforced that rule. That is the reason there are fewer granted and more refused.

Q When an application comes before the Board for a re-hearing, how many votes are required to have a re-hearing granted?

A Two votes will grant them a re-hearing.

Q But is it correct that only three will grant the application on its merits?

A Oh sure, there must be three.

Q Have you, as Chairman of the Board of Pardons, and at the direction of the Board of Pardons, had a compilation of the number of times the Board, the present Board, disagreed with recommendations of trial judges?

A Well—

Q I don't know whether you have it there?

A I may have it. Here it is.

Q Is that a list containing the recommendations of judges and district attorneys for 337 pardons and commutations granted by the Pennsylvania Boad of Pardons, February 1, 1955 to December 31, 1956?

A I did not get that number.

Q Three hundred and thirty-seven pardons and commutations. I am reading from the top of the page. It would appear, Mr. Furman, that these are two difierent documents. The one is from January 1953 to December

1954 and the one I read was from February 1, 1955 to December 31, 1956.

A I have copies now.

Q Do you have both of them?

A Yes.

Q I will re-phrase the question that I asked, and ask you now, does the first of those two documents show the recommendations of judges and district attorneys for 767 pardons and commutations granted by the Pennsylvania Board of Pardons from January 1953 to December 1954?

A Yes sir.

Q Using that document, will you inform the committee as to the number of cases in which the judges and district attorneys recommended the same action?

A The number was 143. They either recommended or neither commented or replied.

Q That is the same action as the Board itself took?

A I am not sure that it is the same action that the Board took, but I am sure that the recommendation of the judge and the district attorney was identical.

Q Now, in how many cases among that number was there opposition?

A Thirty-nine cases out of 143.

Q In how many cases was there neither opposition nor objection?

A There were forty-three and that could also include recommendations.

Q In how many were the judges and district attorneys willing to rely on the Board?

A There were twenty-eight that they were willing to rely on the Board, and many times there were qualified answers such as would rely on medical reports.

Q In how many were there no comment or no reply?

A Thirty-three.

Q Now, I should like to have you tell the Board the cases in which the judges and district attorneys themselves disagreed in their recommendations, as to the number of cases in which there was disagreement between them out of a total of 767 cases. In how many did the judge and district attorney disagree?

A Five hundred and ninety-four.

Q Among those 767 in how many was the judge opposed?

A One hundred and fifteen.

Q In how many was the district attorney opposed?

A One hundred and thirty-five.

Q Among those 767 cases in how many did the judge neither oppose nor object?

A One hundred and four.

Q In how many such cases was there a recommendation of the district attorney that was neither opposed or no objection?

A Three hundred and thirty-four.

Q In how many of those cases did the judge say he was willing to rely on the Board?

A Ninety-nine.

Q In how many cases did the district attorney say he was willing to rely on the Board?

A Fifty-eight.

Q In how many cases of those 767 did the Board fail to receive any comment or reply from the judge?

A Two hundred and seventy-six.

Q In how many did they fail to receive a reply from the district attorney?

A Sixty-seven.

Q Now in cases in which more than one judge participated, in how many cases was there a recommendation from judges where there was a plurality of judges?

A Thirty.

Q In how many cases did they receive recommendations from the district attorney in addition to that of the judges?

A Same number.

Q The same number?

A Thirty.

Q That is in those cases where more than one judge sat, the judges and the district attorney alike commented upon all?

A Yes.

Q In how many cases did the judges oppose?

A Eleven.

Q In how many cases did the district attorney oppose?

A Fourteen.

Q In how many cases did the judges render no opposition or objection?

A Fifteen.

Q In how many such cases did the district attorney render no opposition or objection?

A Sixteen.

Q In how many such cases did the judges state their willingness to rely on the Board?

A Seven.

Q In how many such cases did the district attorneys state their willingness to rely on the Board?

A Eight.

Q In how many such cases was there no comment or reply from the judges?

A Twenty-seven.

Q In how many such cases were there no recommendations or replies from the district attorney?

A Twenty-one.

Q Now will you turn to the recommendation of judges and district attorneys covering 337 pardons and commutations granted by the Pennsylvania Board of Pardons from February 1, 1955 to December 31, 1956.

In how many cases were there, of that lot, where the judge and district attorney recommended the same action?

A There were seventy-eight cases.

Q In how many cases did the Board act contrary to the opinion of the judges and district attorneys?

A I do not have that recorded.

Q Don't you have it right there? Isn't it eighteen?

A Yes, eighten were opposed, that's correct. I'm sorry.

Q Eighteen out of 337 cases were granted over the opposition of the judges and the district attorneys?

A Just a minute until I see.

(Discussion off the record.)

BY ATTORNEY GENERAL McBRIDE:

Q Now, let's go back to the seventy-eight figure. The seventy-eight figure are the cases in which both the judges and district attorney recomended the same action?

A Yes, that is correct.

Q Seventy-eight?

A That is correct.

Q Now, there were eighteen in which the judge and district attorney opposed the action taken?

A That is correct.

Q Well, that is eighteen out of 337?

A Yes.

Q Now, how many cases were there in which a judge and district attorney were neither opposed or had no objections?

A Forty-four.

Q In how many cases did they express themselves as being willing to rely on the Board?

A Eleven.

Q In how many cases did the Board receive no comment or reply?

A Five.

Q Now, in how many cases out of 337 were there in which the judge disagreed in their recommendations?

A Two hundred and thirty-seven.

Q Now as to the cases where they disagreed in how many cases did the judge oppose?

A Twenty-eight.

Q There were twenty-eight in which the judge opposed. In how many did the district attorney oppose?

A Forty-three.

Q In how many cases did the judge register neither opposition nor objection?

A Forty-five.

Q In how many cases did the district attorney register neither objection nor opposition?

A One hundred and sixty.

Q In how many cases did the judges state that they were willing to rely on the Board?

A Sixty-two.

Q In how many cases did the district attorneys state they were willing to rely on the Board?

A Fourteen.

Q In how many cases was there no recommendation, no comment or no reply from the judge?

A One hundred and two.

Q In how many such cases was there no comment nor reply from the district attorney?

A Twenty.

Q Now the final category in that group, cases in which more than one judge participated. In how many cases were there recommendations where more than one judge participated where you received a recommendation, whatever it was, from the judge and the district attorney?

A Twenty-two.

Q Of those cases, in how many were the judges opposed?

A Seven.

Q In how many such cases was the district attorney opposed?

A Two.

Q In how many such cases were the judges neither opposed nor did they register any objections?

A Nineteen.

Q In how many such cases did the district attorney neither oppose nor offer objection?

A Fourteen.

Q In how many such cases did the judges state their willingness to rely on the Board?

A Nine.

Q In how many such cases did the district attorney state his willingness to rely on the Board?

A Five.

Q In how many cases did the judges make no comment or reply?

A Eight.

Q In how many such cases did the district attorney make no comment or reply?

A Three.

Q Now to go back for just one second where we state that out of the entire list of 337 pardons and commutations granted by this Board, and you having stated that eighteen were granted over the opposition of the judges and district attorney, how many out of that eighteen were cases with qualified opposition?

MR. KOHN: What do you mean by that?

ATTORNEY GENERAL McBRIDE: I thought the Lieutenant-Governor would explain it, but I will ask him. That is suggestions that prisoners should serve a minimum sentence or that consideration is premature and whether even the objection was later removed.

THE WITNESS: I don't quite get your question, General.

BY ATTORNEY GENERAL McBRIDE:

Q If you will refer to the footnote, I think it will indicate the answer.

A That is correct: "(1) Including ten cases of qualified opposition—suggestions that prisoners should serve minimum sentence, that consideration is premature. In one case objection was later removed."

Q It would appear that out of the 337 pardons and commutations there was outright an unqualified objection by judges and district attorneys in eight cases.

A That is correct.

BY CHAIRMAN TOMPKINS:

Q Governor, on that last question, you referred to the 337 pardons and commutations granted between February 1, 1955 and December 31, 1956. Do you have similar information in connection with the period January 1953 to December 1954, as to the number of commutations granted over what the General has called qualified opposition?

A In that period those cases in which the judges and district attorney recommended the same action, there were 143 cases and 39 were opposed, including cases of qualified opposition, "suggestions that prisoners should serve minimum sentence, that consideration is premature, and so forth." It doesn't give the number. We have "ten" here.

Q You have no information as to the number which the Board granted over what was considered qualified opposition?

ATTORNEY GENERAL McBRIDE: We don't have it on this chart. If the Board would like us to get it, we would be glad to supplement with that information. I myself had not noticed it and I think it might be significant, in fairness to the other Board, that we note in footnote (1) as to the commutations and pardons for 1953 and 1954, that this figure does include cases of qualified opposition. See, none of it is either black or white.

Sometimes they say they are unqualified and sometimes they say, I think you ought to do a couple more months.

CHAIRMAN TOMPKINS: I wanted to get the same category for the period of 1953 and 1954 as you have given it to us for 1955 and 1956.

ATTORNEY GENERAL McBRIDE: The number of qualified oppositions? I think we will be delighted to give it to you.

CHAIRMAN TOMPKINS: Well, as I understand it, the question here concerns cases in which the Pardon Board recommended commutation or pardon over what was considered qualified opposition.

ATTORNEY GENERAL McBRIDE: Yes, that's right. The total number of cases that we have shown you here in opposition was eighteen. Of those eighteen, ten were qualified opposition of various kinds. We have shown that the next preceding thirty-nine cases were cases with opposition and we do not include the number, but I should think that it would not be roughly disproportionate to what we say here respecting the present Board. I don't have the actual figure.

CHAIRMAN TOMPKINS: What I am getting at, General, is this: I would like to have submitted to this committee the names of those ten cases in which the Board granted commutation or pardon over the qualified opposition of judges and district attorneys.

ATTORNEY GENERAL McBRIDE: Oh, you want the names of the cases?

CHAIRMAN TOMPKINS: I want to get the names of those ten cases that were granted by the Board over the opposition of the judges and the district attorney.

ATTORNEY GENERAL McBRIDE: All right, fine.

BY REPRESENTATIVE BELL:

Q Governor, if there is any mistake in these figures, would that mistake have been made by Mr. Hean?

A Yes, there was someone in the office who prepared these.

ATTORNEY GENERAL McBRIDE: What mistake?

REPRESENTATIVE BELL: I say if there is a mistake; in other words, it is not your mistake?

ATTORNEY GENERAL McBRIDE: I would consider it was an omission, certainly not intentional.

BY CHAIRMAN TOMPKINS:

Q These were not prepared by you, Governor?

A No. No, these were prepared at the direction of the Board, by the staff.

ATTORNEY GENERAL McBRIDE: But any additional information that the committe wants, we have a duty to supply it, apart from the fact that we would like to supply it.

BY ATTORNEY GENERAL McBRIDE:

Q Did you sit on the local Erie County cases, Governor?

A Yes, sir.

Q Do you know anything in the handling of those cases by the Board of Pardons that was improper or dictated by political considerations?

A I do not.

Q Were you present at the hearing at which a letter was produced from the folder of the Board of Pardons indicating that Edward A. Carney talked both with you and Frank Hean about the re-submission of the petition for commutation of John J. Martin?

A I was at that hearing and heard the letter read.

Q Now, tell the committee what your recollection is as to the correctness of that aspect of the letter.

A It must be correct because the letter states that Mr. Carney talked with me. One thing I do know is that there was no conference with Mr. Carney, Mr. Hean and myself. I am sure, from hearing the letter read, that Mr. Carney came into my office to ask about re-submitting the case. And I am sure that I told him the procedure and then referred him to the Secretary of the Board to get the proper forms and also to be advised concerning the proper procedure.

Q But it says that he talked with both you and Mr. Hean.

A Well, not—

Q Did he talk with the two of you together?

A No sir; I am sure of that.

Q Was there anything discussed by you with Mr. Carney as to the merits of the case?

A No, only procedure that I recall.

Q Now, did you participate in the hearing on the Erie County cases?

A Yes sir.

Q Are you familiar with the sequence of the applications, the hearings, and how it came about that the recommendation contained changes on it so as to permit these men out for Christmas?

A I think I can give you that.

CHAIRMAN TOMPKINS: Are those the ones upon which erasures appeared on the face of the document?

ATTORNEY GENERAL McBRIDE: Yes, both on the recommendation that was sent to the Governor and the warrant later signed by the Governor.

THE WITNESS: What is the number of those cases?

MR. KOHN: What would you like to have?

THE WITNESS: I think you are asking about the June hearing first.

BY ATTORNEY GENERAL McBRIDE:

Q Yes, starting with the June hearing.

A Flatley's case was not heard at that time.

MR. EVANS: I don't believe we have that in that order, but I can read them off to you, as to what you have in mind, one at a time.

ATTORNEY GENERAL McBRIDE: Not all of them, but we want to generalize about them.

CHAIRMAN TOMPKINS: What is the number on the Martin case?

MR. EVANS: A-3103 is Martin.

THE WITNESS: We have them according to the number listed on the calendar.

I have Martin here.

MR. EVANS: I can give them to you. Martin is June 1955 Sessions, 104.

CHAIRMAN TOMPKINS: What about Flatley?

MR. EVANS: Flatley, 135 September Sessions, 1955.

(Discussion off the record.)

THE WITNESS: The first hearings on those cases from Erie were in June. "Board of Pardons, Commonwealth of Pennsylvania, convened on Friday, June 24, 1955, at

9:20 a.m., Daylight Saving Time in the Supreme Court room and the first applications from Erie were heard at that time. They were not acted upon. There was an executive session to discuss cases 99 to 146 which concluded the hearings of that day. It was held on Wednesday, July 6, 1955, at 12:30 p.m., Daylight Saving Time in the office of the Board of Pardons."

BY MR. KOHN:

Q May I ask a question here? Are you reading from the minutes made up by the Secretary?

A Minutes prepared by the Secretary, yes.

MR. KOHN: Thank you.

BY CHAIRMAN TOMPKINS:

Q Governor, do you have a list of all the cases that went before the Board in June, 1955? Are the Erie County cases listed:

A I have most of them here. We may have missed two or three, but I have most of these cases.

MR. KOHN: They were heard at different times. Some were heard later.

CHAIRMAN TOMPKINS: I just wondered how many were heard in June, 1955, and those heard subsequently.

BY ATTORNEY GENERAL McBRIDE:

Q The first were heard in June, were they not?

A They were heard on the 24th day of June. I have twelve of them. I think that is the total number. I don't have my calendar here.

Q Now, go on and tell the committee what occurred at those hearings and at the executive session?

A At those hearings the District Attorney of Erie County appeared and made certain recommendations. I think they all had their attorneys there pleading their cases for them. We heard them on the 24th of June; we acted on them on the 6th of July in executive session, those particular cases.

Q Was there any favorable action on any of those cases taken on July 6?

A Yes.

Q Which ones?

A Alesi was granted commutation after nine months. Koehler unanimously granted after nine months. Alessi was unanimous. Michalski, unanimously granted; Martin was unanimously refused; Salamone was unanimously granted as of one year; Damore unanimously granted after nine months; Rotunda, unanimously granted after nine months; Krysiak unanimously refused; Niemyer, unanimously refused; LaJohn, unanimously granted as of nine mouths; Ditullio, unanimously granted after nine months; Camili, unanimously granted after nine months.

Q Now in connection with those applications of the Erie County cases in June, did anybody directly or indirectly attempt to use any political influence upon you?

A No one ever talked to me about any of the cases either for or against.

Q Have you any knowledge of anyone attempting to talk to any of the other member of the Board of Pardons?

A I have no knowledge nor any indication from any of them that anyone had ever talked either pro or con.

Q Was there anything in the discussion in the executive session or otherwise among the members of the Board that would indicate that any member of the Board was motivated by political influence?

A It was never discussed. I never heard it discussed.

Q Now then, what occurred thereafter? When did the next group of cases come up before the Board?

A The Pardons Board after the June meeting recessed for July and August. The next meeting of the Board of Pardons fell in the month of September.

"The Board of Pardons of the Commonwealth of Pennsylvania convened on Thursday, September 22, 1955, at 9:28 a.m., Daylight Saving Time, in the Supreme Court room.

"Those present were myself, Mr. Finnegan, Mr. Cohen, and Miss Blatt."

At that time we heard the case of Adiutori, Czulewicz, Dominick, Flatley and Kaminski. I thing those are all the Erie cases.

No action was taken at that time. In executive session we discussed cases from one to twelve, inclusive, and 132 to 163, inclusive, were held October 10, 1955, at 12:00 o'clock, Daylight Saving Time, in the office of the Board of Pardons. At that time action was taken on the other Erie cases.

BY MR. KOHN:

Q Will you give us what action was taken?

A Adiutori, granted as of one year; Czulewicz, as of eleven months; Dominick was refused; Flatley, granted as of one year. Mr. Cohen voted "no." Kaminski, granted as of eleven months.

BY ATTORNEY GENERAL McBRIDE:

Q Now in consideration of those cases, were you in any way motivated by political influence?

A No sir.

Q Was there any improper influence?

A No sir.

Q Have you any knowledge that any other member of the Board was?

A I have no knowledge.

Q Was it ever discussed?

A Never discussed.

Q Now then, did there come a time when you considered the possible release of some of these men prior to Christmas of 1955; and if so, tell us how it came about.

A There was a special executive session held in the Board of Pardons office November 14, 1955. I was absent that day. The cases considered were the following numbers: 28, 54, 101 and 58, which do not apply to Erie County; but numbers 132, 133 and 135 were Adiutori, Czulewicz and Flatley. At this time the members present agreed to set the expiration date as of December 15, 1955 of the following. The change was made on the charter and Mr. Furman was so advised.

Q Now did the Board receive any communication from Judge Evans with respect to Martin?

A I think it's in the file, and I have everything here with me. There was a recommendation in the file, I am sure.

CHAIRMAN TIMPKINS: Was his letter entered as an exhibit?

ATTORNEY GENERAL McBRIDE: Yes.

CHAIRMAN TOMPKINS: If it is not in the file, then it must be with the exhibits.

ATTORNEY GENERAL McBRIDE: There is a photostat right here.

CHAIRMAN TOMPKINS: That will be satisfactory.

BY ATTORNEY GENERAL McBRIDE:

Q Now remembering that Martin had been sentenced for one year and that there was a letter received from Judge Evans, which I am now showing you, I ask you to read the pertinent part of that letter if there is any part of it which was considered by the Board in deciding to release Martin prior to Christmas.

MR. KOHN: I think you ought to give the date of that letter, also.

THE WITNESS: Sure. The letter is dated October 14, 1955, addressed to the Board of Parole, Commonwealth of Pennsylvania. It says:

"If you have contemplated releasing him at the expiration of his minimum period, January 8, I would see no reason for refusing to allow two weeks further reduction in order that he might be home for Christmas." Signed by: Elmer L. Evans, President Judge, Sixth Judicial District.

BY CHAIRMAN TOMPKINS:

Q That relates to Martin, does it?

A Yes.

BY ATTORNEY GENERAL McBRIDE:

Q Now was that consideration granted to Martin?

A Yes.

Q Thereafter, was any further consideration granted to any others on the basis of that?

A Yes, the same.

MR. KOHN: On the basis of what?

ATTORNEY GENERAL McBRIDE: On the basis of the fact that it had been granted to Martin.

THE WITNESS: Yes, to Adiutori, Czulewicz and Flatley.

BY ATTORNEY GENERAL McBRIDE:

Q When was it granted to Martin?

A As of December 15, I believe.

Q Yes, but when was the action taken?

A When was the action taken?

Q When was the action taken?

A The Board of Pardons of the Commonwealth of Pennsylvania convened on Tuesday, October 25, 1955, at 9:15 a.m., Eastern Standard Time, in the Supreme Court room.

The Board unaimously voted to reconsider the application of John J. Martin and granted commutation as of Dacember 15, 1955.

BY MR. KOHN:

Q What is the date?

A October 25, 1955.

BY ATTORNEY GENERAL McBRIDE:

Q Now, the letter of Judge Evans was dated October 14?

A Yes.

Q And it was eleven days after the receipt of that letter from Judge Evans that the Board decided to release Martin on a reconsideration?

A That is correct.

Q As of December 15, so he would be out for Christmas. Was that a new commutation?

A Action was taken on October 23, and then by this letter we reconsidered it in executive session and voted to grant him commuatation as of December 15.

Q Now, having done that for Martin, tell me when the Board decided to commute Flatley's sentence?

A At a special executive session on November 14 was when Flatley, Adiutori and Czulewicz were commuted to December 15, 1955.

Q That was about nineteen days after commuting Martin?

A October 25.

Q October 25?

A That is correct.

Q About twenty days after having decided to commute Martin's sentence as of December 15, the same type of consideration to release before Christmas was extended to Flatley and to two others?

A That is correct.

Q In extending that to Mr. Flatley, was there any political considerations whatever?

A None that I know of.

Q Was there any improper influence operating upon any member of the Board of Pardons?

A None that I know of.

Q Governor, are you or were you a member of a committee having to do with Leader Woodland in Israel?

A I was not aware of that until the letter was read here in the hearing room the other day, although I guess I did know at the time I allowed my name to be used on that. I had forgotten until my memory was refreshed.

Q Did you receive a letter dated May 29, 1956, from Rabbi Aaron Decter?

A Yes.

Q Do you know Rabbi Decter?

A I have only met him possibly on a couple of occasions at meetings. I think one occasion was in Philadelphia and I think I met him again in Washington, Pennsylvania. It was a very casual acquaintance.

Q Do you know Myron Prosser?

A No, I think not. I might have met him on some occasion.

Q But is he a friend of yours?

A I would not know him if he walked into this room.

Q Well, this mentions Mr. Prosser and indicates he has told the Rabbi about a hardship involving Ben Kaufman of Erie. Did you receive that letter?

A Yes, I think I did. I have a record here, I think.

Q What did you do with it?

A As I do with all letters of that kind, I send them to the Secretary of the Board and ask that they be made a part of the record.

Q So they will be available if anybody looks up the record?

A Anybody that wants to see them.

BY MR. KOHN:

Q What is this now? What will be available?

A The letter that I have received.

BY ATTORNEY GENERAL McBRIDE:

Q Did the Rabbi attempt to use any improper influence on you?

A No sir, only the letter that was written.

Q This letter indicates a desire to have the opportunity to meet with you personally to discuss the matter. Do you recall whether or not there was any personal meeting between you?

A I have no knowledge of any meeting.

You asked a question about Myron Prosser. I am sure that I do not know him, coming from Erie. Positively, I have not met the man.

Q There has been introduced in evidence a letter on the letterhead of The Kane Democratic Club, Kane, Pennsylvania; Harry Rook, Treasurer, addressing you as "Dear Roy." Do you know Harry Rook?

A No.

Q Are you conscious of ever having met him?

A I may have met him but I don't know him.

Q Did you receive a letter such as has been put in the record signed, "Harry"?

A Yes, I think that is Harry Jones. His name is up in the left corner. I do know him.

Q You do know Harry Jones?

A Yes, and this letter was from him and I also made it a part of the record.

Q Did the fact that you received a letter from Harry Jones affect your decision in any improper way?

A No sir.

Q And did that letter follow the usual course of being sent by you to the Scretary for filing?

A Yes sir.

Q Did Mr. Jones ever personally talk over the case with you?

A I can't say. He may have called me on the phone about the case to see if it can be listed and heard. I have no recollection of talking with him personally about it. I may have had a telephone call. I can't swear to it.

Q Now do you know Mr. Alton Phelps of Erie?

A Yes sir.

Q Do you know whether or not, by the way, Harry Jones is a relative of Ben Kaufman?

A I have no way of knowing. I would say no off-hand. I am almost positive of that.

Q Now this letter says: "I understand that Mr. Phelps was in the city this week and spoke to various members of the Board on this matter." Did Mr. Phelps speak to you on that matter?

A If he did, I have no recollection.

Q Did he ever write you a letter?

A No, if he had written me a letter, it should be in the file.

Q Did Mr. Phelps attempt to use any improper influence upon you?

A No sir.

Q Mr. Furman, do you know Congressman William A. Barrett?

A Yes sir.

Q There has been introduced in evidence a letter from Congressman Barrett concerning an applicant named Phillip Mollica. Did you receive such a letter?

A Is there one in the file?

Q There is a letter in the file. My recollection on that, if I am correct, is that it was addressed to the Secretary.

MR. KOHN: That is absolutely correct. In fact, there are two letters; one is addressed to the Board of Pardons and the other is addressed to Mr. Hean.

THE WITNESS: Well, then I have no knowledge of—

BY ATTORNEY GENERAL McBRIDE:

Q You did not get any personal letter?

A I have no knowledge of receiving any personal letter.

Q Did you talk with Mr. Barrett personally about this Mollica case?

A I have no recollection of talking to him, although I have seen Congressman Barrett from time to time, but I have no recollection of talking about that case.

Q Do you recall ever having talked to Congressman Barrett about the merits of any case?

A No.

Q Do you have any recollection that the letter of Congressman Barrett was called to your attention prior to the decision of the Mollica case?

A No, I am sure that it was not. But if it was in the file, I saw it and evidently it was there.

Q Mr. Barrett's letter asked for consideration of the matter at the September 1955 meeting instead of the November 1955 meeting, which would be the normal expiration date of one year. Do you have any recollection that because of his official position or his politics or anything else connected with him that the decision to hold it at the September 1955 meeting was a matter that affected the judgment of the Board?

A I would not think that that would affect any judgment of the Board?

Q Do you know of any appeal made by Mr. Barrett to any other member of the Board on the merits of the case?

A I do not.

Q Were merits discussed among the members of the Board?

A Not my knowledge.

Q Mr. Furman, did you at the request of the Board, in acting as Chairman of the Board, request the Secretary to make a list of the cases heard by this present Board that came up from Delaware County?

A Yes sir.

Q Do you have that list with you?

A I think I do.

(Discussion off the record.)

ATTORNEY GENERAL McBRIDE: Could I have the indulgence of the committee to call Mr. Trescher as the next witness since I am presenting my testimony today? He is in town and he is running the University of Pennsylvania Drive of Law School tonight at the Penn-Harris Hotel and he has an awful lot of things to do in Harrisburg getting ready for it. I would just like to call him a little bit out of order.

MR. KOHN: It is all right with me.

(At 11:30 a.m., the hearing adjourned until 1:00 p.m. of the same day.)

AFTERNOON SESSION

March 27, 1957

ROY E. FURMAN, Recalled

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Governor, before we leave the Erie County cases, have you called out of the various records the positions taken by the district attorney in those cases in which action was taken either to grant or refuse the application.

A I have here what the district attorney said in those cases. In June on the Alessi case:

"I think he should serve a little more time. I don't mean he could serve the complete minimum but I do not think he has served enough time."

BY CHAIRMAN TOMPKINS:

Q Are these statements made before the Board or are these letters?

A No, these are statements made before the Board.

BY ATTORNEY GENERAL McBRIDE:

Q Were these culled out from the transcript?

A Yes. It is not a complete statement. That is page 428 of the transcript.

Q Now, just to complete each case as it goes along, that would be at the June session?

A Yes.

Q He took the position that he had not as of June served sufficient time?

A He said: "I think he should serve a little more time."

Q And he was required to serve nine months being released on October 6, 1955, was he not?

A That is correct.

Q So that in that case you were more strict than the district attorney?

A That is correct.

Q What is the next one?

A Michalski. "As a matter of fact I recommend that the Board let him go."

Q Now he was released August 27, 1955, after seven months and five days, is that correct?

A That is correct.

Q What is your next one?

A Martin. The only thing I have from the district attorney was just a recommendation.

Q He was not released until December 17, 1955?

A That is correct, December 17.

Q Next?

A Salamone. The district attorney says: "A known gambler; if he serves half of his minimum, I would have no objection to his release."

Q Was he required to serve half of his minimum?

A Yes.

Q He served all of his minimum, didn't he?

A No, Salamone was sentenced to one and one-half to three, and he served one year.

Q One full year?

A That is right.

Q And which was more stringent than the district attorney's position?

A That is right.

Damone, "I don't think he should be released at this time."

Q Was he released at that time?

A No, he was not released until the 25th of October 1955, serving nine months and nineteen days.

The next one is Rotunda. The district attorney says: "I do not oppose. Say I am neutral on the thing."

Q Was he released at that time?

A He was not released at that time. He was released on the 6th of October 1955, serving nine months.

Q In that case the Board was tougher than the attorney's recommendation?

A That is correct.

The next is LaJohn, and I asked him this question. "You are in favor of his (LaJohn's) release?" And McLaughlin answered, "Yes, your Honor."

Q Now LaJohn was not released at that itme, was he?

A No, he was not released until the 6th of October.

Q Serving five months.

A Nine months.

Q In that case also you were tougher than the district attorney?

A That is correct.

DiTullio. The district attorney said, "I am appreciative of the fact that he did plead guilty and saved the county money. He was not a big-shot operator." He was released on the 10th of October, serving nine months.

Q Who's next?

A Camili. Defense counsel, "Will you recommend commutation to McLaughlin?" And this is McLaughlin's reply: "I don't believe this man will ever get in any trouble if released." And Camili was not released then, but was released on the 6th of October 1955.

Now those are the June cases. Then in the hearing in September with respect ot Adiutori, the district attorney said: "I do not believe that this man, Dominic Adiutori, should serve any more time than James Salamone. I think it would be only just that we reduce Adiutori's sentence down to that of his partner." Adiutori, of course, as I testified this morning, was released on the 15th day of December 1955, serving eleven months and five days.

Czulewicz. The district attorney said, "I think he should pay the penalty." Czuelwicz was released on the 15th of December, serving eleven months and five days.

Dominick, that is Mike Dominick. "Now as I say, I do oppose his being released immediately; but if the Board sees fit to commute his sentence before the minimum expires, I will not oppose." And Dominick was sentenced from one and one-quarter to two and one-half years, and he served that period of time, being released on April 6, 1956.

Q Did he have a prior record?

A He had a prior record.

Q So, then in that instance, the Board was tougher than the district attorney?

A That is right.

Q The Board gave him no clemency at all?

A No, there was no clemency granted to that applicant.

BY MR. KOHN:

Q There was only one hearing on it?

A Yes. And Flatley. This is what the district attorney said: "While I believe he should receive some commutation, I do not wish to make any recommendation as to what that commutation should be because I believe the Board is in a more objective position to make that decision than I am?

Then Miss Blatt asked this question, "You do recommend commutation?"

"Mr. McLaughlin: 'Yes, that is correct."

Of course, Flatley was as you all know, released on the 15th day of December 1955, serving eleven months and nine days.

Kaminski. This is the district attorney's statement, "I leave it entirely to the Board to decide just what consideration this applicant is entitled to."

Then Kaminski was sentenced to one and a quarter to two and one-half years, but was released on the 6th day of December 1955, serving eleven months.

Q Does that cover all of them?

A That covers them, I believe.

Q What about Swartz?

A I do not have that one here.

All we have on this sheet is Stanley Swartz. And his case was heard in February 1956, and Mr. Johnson, I think, was the district attorney who was here. He was sentenced one and one-half to three years. He was released on the 8th of August 1956, serving one year. The judge's recommendation: "Should serve at least as long as Flatley."

Q Did he?

A He served a little bit longer. Flatley's was eleven months and a few days.

The district attorney opposed at this time as not serving enough time.

Q At that time?

A That was in February 1956. He said, "Opposed at this time. Has not served enough time." But he was not released until six months later, in August.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, do you have Exhibit No. 7?

CHAIRMAN TOMPKINS: What exhibit is that?

ATTORNEY GENERAL McBRIDE: It is the Delaware County cases.

CHAIRMAN TOMPKINS: That must be in the exhibit file. I will have it sent down to you.

ATTORNEY GENERAL McBRIDE: Very well.

(At this point Chaimman Tompkins temporarily withdrew from the hearing. Senator Scott acted as Chairman.)

ATTORNEY GENERAL McBRIDE: Mr. Chairman, in the interest of saving time I will be perfectly willing to call for examination by the committee on cross examination, subject to my going into the Delaware County matter when that exhibit is brought to us.

ACTING CHAIRMAN SCOTT: I think that would expedite things.

MR. KOHN: What exhibit is that?

ATTORNEY GENERAL McBRIDE: It is Exhibit No. 7. It shows the Delaware County cases.

MR. KOHN: It is all right with me.

ATTORNEY GENERAL McBRIDE: Well, if you would grant the privilege now, I can put Mr. Trescher on now.

ACTING CHAIRMAN SCOTT: Mr. Tompkins should be down pretty soon. Suppose we have the examination of the witness by the committee, and Mr. Kohn, and then we will put on your witness.

Does any member of the committee, or Mr. Kohn, have anything to ask Governor Furman?

BY SENATOR FLEMING:

Q Nothing about his testimony, but, Governor, if you would care to give your opinion. Do you think that some type of extra help should be afforded to the Pardons Board in the form of an investigation staff or full-time employees? You do not need to give an opinion if you do not care to.

A I will be very glad to. I think that the Pardons Board needs some extra money for additional employees right at the present time and some additional equipment.

Now as to the investigation, that might be worth while, although I think people understand we do get quite a report from the Parole Board. If we went out and did that it seems to me we might be duplicating the same thing that we have at the present time.

While the Pardons Board and the Parole Board to some extent are working in the same field, they are separate entities. They have their work; we have ours. But we do have some connection. They are staffed and do give us a report which is very valuable. I will say this. In my mind—and I think the other members of the Board will say it also—those reports are just as valuable as the recommendations of judges and district attorneys, and we do take them into consideration, all of these factors and that is the way that we make up our minds. Now, there is always room for improvement in everything.

Q But what I meant is, would you have need for several investigators whom you might want to, at times, send out on your own to check certain things? Would that be of any assistance to the Board?

A It could be of assistance. I would not want to see a great big staff. I don't think it is necessary but I think it could be very helpful at times to have someone that we could send out as on call to make an independent investigation. These cases are very well investigated by the Parole Board. They always send us a good report and complete history of the applicant, his family and all of his activities through his life, all the background of his family and himself. It is very complete, but there could be a time when our own investigator might go out and look into certain things that we haven't received otherwise.

BY SENATOR YOSKO:

Q Governor Furman, there has been some criticism relative to the brief period in which the cases are argued before the Board, although you did testify on this through examination by Attorney General BcBride.

When you send out letters to attorneys who appear for or against a petition for commutation of pardon, do you specify in that letter or serve notice on anybody that participates in the arguments relative to a limitation of time to present arguments?

A I don't think there is anything specified as to the limiting of time. It is just a general notice to them that their case will be heard. I think that is right. Mr. Hean sends out the letters and he could testify to that exactly. I am positive there is no limit specified. They are given a calendar, and they know the number of their case where they appear.

Now you say that there has been criticism. As long as I have sat on the Board I have never heard any one make a complaint, to me, the attorney for the applicant, or any member of the applicant's family, that they were not given a full and complete hearing. I do not know

where that criticism comes from, but there has never been a complaint registered with me about that.

Q Well, it came from some of the members on the Board down here in this committee, and some of the witnesses that appeared here also thought there was very little time consumed in arguing a case. As a matter of fact, we were up there one day and I think there was a remark made that these case was disposed of in five or six minutes.

A We dispose of cases in one minute, sometimes two or three minutes. Perhaps you had left to go to the Senate this morning when I made the statement that after the members of this committee left the other day we had a case that lasted probably an hour, and everybody got a complete and full hearing; everyone had the opportunity of expressing what they had to say. We cannot limit it. We don't cut them off, I will say that. If an attorney gets up there and he can present his case in a minute or two, we give him that time. If he wants to take ten or fifteen minutes, we allow him the time.

Q Well then in any event, if it is a case that is disposed of in one minute or five minutes or ten minutes, whatever it is, it is not because you restrict any one to the length of time that they are allowed to present their arguments?

A We never restrict anybody, either for the applicant or against the applicant.

Q Governor Furman, there are letters sent in by judges and district attorneys and perhaps others indicating that they favor or disapprove the granting of a commutation or a pardon. In those cases where both the judge and the district attorney send in a letter disapproving a commutation or pardon and the Pardons Board acts contrary to those recommendations, what factors do you take into consideration in overruling the objections of the judge and the district attorney?

A Well, in deciding these cases we have a lot of factors, a lot of information that we have submitted to us.

First we have, naturally, the applicant's version of the crime and we have the official version. We have his prior record, if he has any, and the recommendations of the judge and the district Attorney if they see fit to send them in. Many times they don't and so many times they say, "rely on the Board." Personally, I wish that they would make a recommendation one way or the other. It would be valuable to us, but then that is something that the Board cannot control.

Then after that prisoner has been sentenced and he is in the penittnetiary, a complete record is kept of the time he was there. They begin with his conduct record, his work record, education. They submit us a psychological report and a psychiatric report, and then we have the recommendations of the prison staff. Those are the people who are there with them and know these men the best, and they know whether or not they have been rehabilitated.

We have had times when the prison staff will suddenly urge the commutation of a prisoner because they say that he is completely rehabilitated and that they are confident and sure that he can go back into society and be a decent citizen. Then the judge or district attorney may have made a recommendation in contradiction of what they said, so we do take those things into consideration because, after all, the purpose is to rehabilitate the people and perhaps the judge and the district attorney are basing their opinions on years back when the crime was originally committed. But this recommendation is a more up-to-date one.

Another thing that we take into consideration is the sponsor. If the person is released, of course they are on parole, and they must have a sponsor; they must have a parole plan and also a job to go to, or some means of taking care of themselves after their release. Of course, I know you all realize that when we do grant these commutations, we do not lose control of that person because the Board of Parole has them, and the moment they violate, even a technical violation, they are right back into the penitentiary.

Q I know, Governor, but now will you sort of confine your explanation to those cases where commutation is granted and the person is on parole? What rules or factors do you use when commutating a sentence where the original sentence was death?

A Well, those are very long and extensive hearings, and all the facts must enter into the case. You almost have to pick out a specific case to get a specific answer, but in those cases there are all the factors from the time of the commission of the crime up to the time we hear it, and we have to take into consideration many, many factors.

Q Well, what are those factors?

A Well, a—

Q I mean where you commute a death sentence to life imprisonment?

A We ought to get a specific case on that because there are no two parallel.

Q You can use any case you want to use since you have been sitting, where a death sentence was commuted to life imprisonment. I don't care which case you take. Do you have one in mind?

A No, I do not have any in mind at the moment, although I can go back to the record and get it because, after all, we heard so many cases. I would be happy to answer, but I would like to go back to the record and get all the facts of a particular case. But the same things are considered, as I said a while ago, about the other commutations we have had. We have recommendations from the judge to consider, recommendations of the district attorney, of the staff, and then the record that they have made while they have been incarcerated.

Q All right, let's take a case where both the judge and the district attorney oppose the commutation from death to life imprisonment.

A And that we would grant it?

Q Yes?

A Then there would be other factors that we would consider which would outweigh their recommendations.

Q But the thing I want to know is, what were those factors?

A Well, I would have to get a specific case because they are all different. If there is any specific case that you want, I would be glad to get my records and give it to you, but just off-hand, I cannot tell you.

Q I wish you would review cases over which you presided where a death sentence was commuted to life imprisonment, and I for one would like to know what factors caused you to grant the commutation.

A This committee is going to have, if the newspaper reports are right, one of those before us here, and I will be very happy to testify in that case or any other, but I certainly don't want to just make, without the records before me, any statement regarding them until I have had a chance to go over the record. I certainly will be very happy to do it on any or all of them.

Q Since you have been a member of the Pardons Board, Governor Furman, has political influence in any way, shape or form influenced your action to either grant or not grant a commutation or pardon?

A No sir, that is never considered because those are not facts in the case. We decide them all upon the facts presented, as I just outlined.

I know of no case which has ever been decided from political consideration either pro or con.

Q It has been suggested here, I think, by one of the judges who testified, that some member of the Pardons Board, or perhaps the staff, ought to review the testimony taken during the trial. Do you think that ought to be a part of the procedure?

A In certain cases, yes, particularly the capital cases.

Q Is that being done?

A Oh, yes. I think every member of the Board has gone over the testimony in that type of cases. Now, there are many of the lesser cases where it isn't done.

Q Then you do say that the capital cases—

A Very definitely.

Q Somebody does review the testimony?

A I think every member of the Board goes over them.

BY CHAIRMAN TOMPKINS:

Q Well, was that testimony available to you in a volume?

A Yes, in all those cases it is a part of the record.

Q They are all part of the record?

A Yes.

Q Governor, where are they kept as part of the record.

A Now, I would have to ask the Secretary.

BY REPRESENTATIVE BELL:

Q Governor, on this subject of the lifers in capital cases, I gather you mean from the murder cases, which in this report, marked B.P., Exhibit 23, that was submitted this morning, I counted roughly fifty-three, I think it is, which are either lifers or capital cases according to this report. Now, how many hours do you, as a member of the Board, devote to one of those lifer or capital cases?

A Well, the capital cases require much more time than the others. Do you mean aside from the public hearing?

Q I will re-phrase my question, Governor: My point in this line of questioning is solely whether being a member of the Pardons Board takes so much of the time of the responsibile public officials who comprise the Pardons Board that they are squeezed for time. I note that during the past year there were 1,067 cases heard. I just note there are fifty-three lifers and capital cases. I also note, but I won't take the time to enumerate, how many capital cases.

Now one of the purposes of this committee, I would judge, would be to recommend legislation. With that background I have just given, the figures and so forth, do the Lieutenant-Governor's other duties as Lieutenant-Governor permit him to devote sufficient time to his other job as a member of the Pardons Board?

A Well, personally, I feel that I have the time and have devoted sufficient time to all the cases.

Q I don't mean this with a critical approach.

A I understand that.

Q I would like your recommendation, sir, as to whether the Lieutenant-Governor should be, if there is legislation submitted, retained by the Pardons Board.

A Well, that's a matter of opinion for the Legislature to decide, but I feel that with all the duties of this office there is still sufficient time to devote to the Pardons Board matters. Of course, you have to determine in your own mind how much time is needed. Let me say this, that many of those cases of murder in the first degree that come out are turned down, and many of them are submitted by the parole officer from the institution, and he knows when he submits them that they are not good cases, but it has a psychological effect on the fellows in the institution. I would think they were more or less compelled to do this. It does take a lot of time.

Q Then, in summary, in your opinion—and you are the best qualified witness as to the duties of the Lieutenant-Governor—in your opinion, does the Office of Lieutenant-Governor permit the incumbent to have sufficient time to sit as a member of the Pardons Board?

A Yes, I would say that is correct.

(Chairman Tompkins returned to conduct the hearing.)

CHAIRMAN TOMPKINS: I think Senator Yosko has another question.

BY SENATOR YOSKO:

Q Governor Furman, there has been some testimony on the procedure concerning the writing of opinions where a commutation or a pardon is granted. I wish you would describe to us just what the procedure is from the time you begin to hear a case up to the time the members hand down their opinion to grant a commutation or a pardon.

A Well, of course, I think we all are familiar with public hearings held in the case. Generally, immediately following those public hearings, the Board members go into executive session. That executive session is just the members of the Board and the Secretary. And, as Chairman of the Board, I call the cases and we vote, because you have to. And I think that every member that ever sat on the Board will say that this is correct; if you did not mark your calendar as you went through, you would forget a lot of the details. So ninety percent of the time everybody votes alike. That has been true all the time I sat on the Board. There have been several changes in the Board since I have been on it. If it is a negative vote or a favorable vote, there is very little discussion, where there is a difference of opinion, then we entered into a discussion. The Secretary hears the cases, the same as we do, and he hears our discussion and writes the reasons which the law says. I think the important thing is the vote. When I vote yes or no I am not too concerned about all the reasons. The law says the reasons shall be filed, and the Secretary does write those. He knows how we all voted and records that, and he prepares it. And we make some corrections. We do not revise the whole thing, but essentially what he writes down are

the reasons we have discussed for acting on these cases favorably. Then, after that is all prepared, it is submitted to us for our signatures and we sign, of course, those that are granted. We sign where we vote in favor; or if there is a dissent, that is marked. Then we write an opinion of dissent, and from that, that is our recommendation that goes to the Governor.

Q And while you are hearing a case and the case is being argued before you, do you and the other members of the Pardons Board have a note book in which you make notes and keep for a record to refresh your memories, or to be used for any purpose it might serve?

A We have a book like this, with all the facts of the case (referring to a loose-leaf note book.) I make all my notes right on that, including the time we start the hearing and the time we close it, and my opinion of anything that is said that I think is important. I make those notes on there so that I know why I will vote in a certain way.

BY CHAIRMAN TOMPKINS:

Q Is this book or digest prepared for you and given to you before you enter the hearings?

A Yes.

Q And then from that you make your notes on the digest?

A I make my notes and then I always check everything that I read on the case, to know that I have gone over the thing.

BY SENATOR YOSKO:

Q So that when you do go into the executive session after the day's hearings are held, you have notes in your notebook on arguments or statements that might have been presented to the Board?

A Certainly. Anything that is pertinent to the case which I think is important I mark down on here, make a little note of it.

Q Are there any practices or procedures that are now in force that you would care to comment on insofar as recommendations for changes are concerned?

A No, I do not know of any at the present time. I will tell you this; I think and I feel personally that our Board has done a good job. I think all the Boards have done an excellent job in Pennsylvania. Probably it is one of the better States in the Union. I think the records will indicate that is true.

The record, I think, was given in the testimony here one day as to the number of those who had received commutations who have later returned, and it is much lower than those who have served their minimum sentences and gotten out automatically.

Q There are just four members on the Board, is that correct?

A That is correct.

Q How many votes does it take to grant a petition?

A Three.

Q It takes three?

A Yes.

Q In the case of a tie, what happens?

A Well, the case is lost. That happens frequently.

Q Do you think there ought to be a fifth member on the Board?

A Not necessarily. I think the system has worked very well. Three is a majority. It would not hurt it or it would not help any.

Q But when the vote is two-two, the doubt is resolved against the petitioner?

A That is right.

SENATOR YOSKO: That is all.

BY CHAIRMAN TOMPKINS:

Q Governor, one of our witnesses at the least session, Judge Laub of Erie, suggested that maybe the Corrupt Solicitation Act should be extended to the Pardons Board. Would you agree with that recommendation?

A Well, possibly that is true. I didn't hear that statement at the time.

Q Well, it was to the effect that he recommended that perhaps the Corrupt Solicitation Act should be extended to the Board.

Now, is there at times any great attempt to contact members of the Board in connection with cases pending or cases which will probably come before the Board? Does the Board find much difficulty with people trying to contact them in connection with such cases?

A Not too much, no. I haven't had too many, although it happens occasionally. Generally it is a member of the family or the attorney in the case who wants some information. As I stated this morning, in the procedure of Carney's hearing, he wanted this case heard, and I sent it to the Secretary.

There is not as much solicitation as the members of the House and Senate get on legislation, I will guarantee you that. But there are always people interested, and, sure, there are letters, telephone calls, and sometimes they come in to see you, too.

Q Well, have you found any difficulty in that respect? Do you think that the extension of the Corrupt Solicitation Act would act as a shield for the Pardons Board against such procedures?

A There is no doubt that it would.

Q Now, General McBride made some remarks in one of our hearings regarding the procedures in England in connection with capital cases, particularly of sending out by the home secretary's office to gather and collect information for the use of the Crown, and then if it comes up at some later date for consideration before their Clemency Board, they have a record that was made when the thing was fresh before them, as well as the current record. Would you consider that to be a good procedure?

A Well, I don't know. I'm not a lawyer; I'm just a layman.

Q Well, as a member of the Pardons Board, do you think that having some file of that kind would be of value to you in capital cases?

A It possibly would.

Q Well, with the testimony of those cases before you, do you think that such a record would be required?

A Well, I don't know as it would be reuired; it might be helpful.

CHAIRMAN TOMPKINS: That is all I have.

BY ATTORNEY GENERAL McBRIDE:

Q Let me just ask a question. In the cases where it has been suggested that the Board has disagreed or differed

with the judge and the district attorney, does that mean that their recommendation has been ignored?

A Oh, no; they are never ignored. Every recommendation, whether it is from the judge or the district attorney or the prison staff, is always considered. And we try to get the proper answer in considering all those various opinions.

ATTORNEY GENERAL McBRIDE: That is all I have.

ROBERT L. TRESCHER, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Trescher, are you a member of the Bar of Philadelphia County and of the Supreme Court of Pennsylvania, and perhaps of the Supreme Court of the United States?

A Not of the Supreme Court of the United States, but I am of the others.

Q And you have been practicing law in Philadelphia for how many years?

A Since 1938.

Q With what firm are you?

A The firm of Montgomery, McCracken, Walker and Rhoades.

Q And did there come a time when you, together with anyone else, represented certain men charged with crime in Delaware County?

A Yes sir. Judge Kraft of Media, and I represented these men through the trial stage and the appellate stage, and then when Mr. Kraft became a judge of the district court, I carried the case on through the Pardons Board.

Q Does your firm usually handle either labor or criminal cases?

A It is a very unusual experience for our firm to handle either labor or criminal cases.

Q Now, were you present when the cases were tried in Delaware County?

A I was.

Q What case was it? How has it been spoken of here?

A Well, it's been referred to here as the McSorley case. Actually, there were five different defendants.

Q And you represent all of them, together with Judge Kraft?

A Yes, Judge Kraft and I together represented all of them.

Q Did he try the case?

A Judge Kraft tried it. I did nothing but sit with him throughout the trial.

Q What was the nature of the defense?

A Well, the nature of the defense was absolute innocence. Do you want me to specify that a little more?

Q No, I think it will be satisfactory if you just indicate that was the contention of the defendant, a contention, however, that was rejected by the jury.

A That's correct.

Q Was an appeal taken to the Appellate Courts of Pennsylvania?

A Yes, sir.

Q To which court?

A There was an appeal taken to the Superior Court and then there was a petition filed for the allowance of an appeal to the Supreme Court which was never acted upon because some additional evedence developed on which we based a motion for a new trial on the grounds of after-discovered evidence in the Delaware County Court. So we asked the Supreme Court to hold in abeyance our petition for the allowance of an appeal in order to process the motion for judgment for a new trial on the grounds of after-discovered evidence. That was denied in the Delaware County Court. That was appealed to the Supreme Court, and then both phases of the case were the subject of a second petition for the allowance of an appeal, which was turned down. So the Supreme Court never actually heard argument on any part of this case.

Q Was there a labor dispute involved in this case?

A There was.

Q Did it have any connection with picketing?

A Yes sir. This case was based upon a charge of riot and conspiracy to commit riot, riotous assault and riotous destruction of property on the site of the old jailhouse in Media. And the disturbance took place at the tail end of a long strike lasting roughly twenty-some weeks, and conducted by the International Union of Operating Engineers.

Q Now while the case was pending on appeal, were the defendants at liberty on a supersedeas bond?

A They were.

Q While they were at liberty, was any application filed before the Board of Pardons?

A Yes sir.

Q By whom?

A I filed that because it was just about at that time that Judge Kraft went on the bench. He and I had worked the thing out together, but at the moment of filing, he had gone on the bench, so, of course, he had to step out of the picture.

Q Had you ever handled a case before the Board of Pardons before?

A To the best of my recollection, I handled one around 1938 or 1939. That was the only other previous experience that I remember.

Q Did you come to Harrisburg to argue the case?

A I did.

Q Was the case disposed of by the Board of Pardons?

A It was, but the petition for pardon was denied.

Q Now, was there any issue raised by any member of the Board at that time that the men were not yet in jail, or that the petition was premature?

A I just got started with my argument when one of the members of the Board raised the question whether, as a matter of policy, the Pardons Board should entertain a petition while the cases were still pending in the courts and before the men had gone to jail. I think it was Mr. Finnegan who raised the question, and various other members of the Board took it up.

Q What contention did you make in respect to the first application for executive clemency?

A Well, are you referring to this matter of policy, or to the merits?

Q No, only the merits.

A Well, this was a five-day trial that took place in Media, and the facts were quite involved. I laid some groundwork in opening the argument by first describing the charges against these men, and told who tried it and

described the sentence, which was two years in prison and $1500.00 fine for each. I described the various motions and appeals and then pointed out that these men had never been in jail, and at that time the case was still pending before the courts. I pointed out that that made this a very unusual petition and that the only proper basis for being before the Board at that time was the innocence of the men. I then introduced the men to the Board so that they could see them, and it was about that time that Finnegan broke in on the question of policy. I was prepared with a legal memorandum because, of course, I had anticipated that that point would be raised, and I argued that the Constitution of Pennsylvania gave the Pardons Board the power to grant clemency at any stage in a criminal proceeding, and I referred to the Board the various Supreme Court decisions, holding that it had the power to exercise that right at any time after conviction and even before sentence.

I, of course, argued that it not only had the power, but the duty to do it in a proper case, and that this was a proper case.

Now as to the merits, I pointed out that the occurrence which gave rise to all these indictments was a riot at the old jailhouse in Media, on July 28, 1952, and that came at the tail end of a long strike.

I said that a man named Gleba and his brother were carrying on the demolition of the old jailhouse, despite the strike, and the Commonwealth testimony was that on this hot July afternoon a group of between thirty and sixty men arrived in cars, assembled in front of the jailhouse and then dashed across the floor of the old jailhouse, which at that time was strewn with mortar dust and rubble. They engaged in melees, roughing up one or two men. They destroyed some machinery, then they all rushed back across this jailhouse floor, got in their cars and fled in haste.

I described the Commonwealth's testimony against the men. I told them that Officer Gestler of the Media Police, or perhaps a township policeman, had testified that he pursued this last car and after having pursued it a distance of six blocks, stopped it, and he testified that these five men were in the car. He immediately called for the Chief of Police Laukead, who arrived on the scene a minute later and Mr. Laukead testified that he carefully examined the men for any sign of dust or dirt. I then described the identification or these men. There were various witnesses, Commonwealth witnesses, who had seen this riot, but there were only two who could testify that these five men were in any way involved. Gleba, one of the Glebas, testified that he could identify one of them, and a man named Blocker testified that he could identify three.

Then I went on to describe the defense of the men, which was that early that morning they, together with a large number of other men, had volunteered for picket duty and that they assembled at the International Airport in Philadelphia for assignments. One of the business agents asked for volunteers to picket this old jailhouse in Media, and these men were just among a group of others who volunteered for the work. These five men were singled out to engage in picketing there and were told to meet there at two o'clock. One of them had a car and they agreed that they would ride out together. The business manager who was organizing this particular picket operation said that he would be there with placards at two o'clock and that they were to simply drive out and meet him.

They said that they drove out. They arrived there just a few minutes before two, parked their cars around the corner simply because it was a handy parking place. They got out of their cars. They saw the business manager standing beside his car across from the jailhouse. They walked up to him and he said, well there is no work going on; you might as well go back and report for another assignment. So they got back in their cars and were driving leisurely out of Media when they were picked up and they testified that they knew nothing about the riot.

Q Now you say that the Chief conducted an examination of their persons to determine whether or not there were any signs of rubble or dirt, and so forth. What was the result of his examination?

A The result of his examination was that he simply could find no trace of dust or dirt.

I based my contention before the Pardons Board on two main points and four or five secondary points. And the main contention that I made before the Pardons Board was that the innocence of these men was established by the evidence of incontrovertible physical facts that were part of the record in this case.

BY CHAIRMAN TOMPKINS:

Q Did you also give to a jury that same information?

A Yes, that same information.

MR. KOHN: All this stuff was given to a jury.

CHAIRMAN TOMPKINS: The jury did not believe it, though, did they?

ATTORNEY GENERAL McBRIDE: Yes, but I thought when we heard the other side as to what we wanted to know being argued before the Board of Pardons—. We are now telling you what was argued before the Board.

CHAIRMAN TOMPKINS: Is what he is telling now the matters that were argued before the Board of Pardons?

ATTORNEY GENERAL McBRIDE: Yes.

SENATOR SCOTT: You are telling us the arguments you made before the Board of Pardons?

THE WITNESS: Yes, exactly.

SENATOR SCOTT: And have you concluded all of the things you have told them?

THE WITNESS: No, I have not. I am getting into the chief arguments and I can go over them very quickly.

I placed the greatest reliance upon the absence of any dust or dirt on these men, bearing in mind that all of the Commonwealth's testimony was to the effect that these men were part of a group of thirty to sixty, who, on a very hot July afternoon, crossed this floor that was thickly covered with mortar dust, engaged in a melee and came out and then were picked up after a hot pursuit six blocks away. I contended that when the Chief of Police examined these men and found no evidence of any dust or dirt, that this was incontrovertible physical proof that these men could not have participated in this riot, because the Chief testified that they showed no signs of physical exertion; that he examined their hands, their finger nails; their trousers, their socks, their shoes; he even took off their shoes and rubbed his hands on the

bottoms of them, and still he couldn't find any evidence of any dust or dirt on their bodies, on their shoes, or on their clothing. And my main contention was that there was absolutely incontrovertible physical proof that these men could not have participated.

The second main argument was the time element involved. All of the Commonwealth testimony, and there were four or five witnesses on this subject, was that this riot took place between one-thirty and one forty-five and that, at the most, it lasted five minutes. I believe one man said it lasted ten minutes, and they were carefully examined on that point. So that, at the very latest, this riot was over and the men out of there by one fifty-five, and yet all of the police evidence shows that these men had been arrested at two fifteen. The very minimum, therefore, of twenty minutes expired from the very last moment when that riot took place to the moment when these men were supposed to have been arrested after the hot pursuit of just six blocks from the scene of the riot.

I contended that if these men had been in that riot, they would have been more like six miles, or sixteen miles away, if they had twenty minutes in which to drive rapidly, rather than just six blocks away. So that was my second main point.

There are a number of other factors which I argued before the Board; for example, all the evidence was that these men ran in and ran out, and yet one of our defendants, Mr. DiAntonio, proved to the court or proved at the trial that he suffered a war injury which made him incapable of running.

Then I talked about Gleba's self-interest, bearing in mind that there were only two Commonwealth witnesses who identified any of these men. One was Gleba, who identified one, and Blocker, who identified three. I talked about Gleba's self-interest and his own contradictory testimony because when Gleba was shown these men in the clothes that they were wearing at the moment of their arrest, he said that he could not identify any of them. At a later hearing he said he could identify one, but when questioned about his failure to identify them earlier, he said, I wasn't sure then that I could identify them, and I am not sure now. Yet at the trial he identified one without any hesitation.

I also talked about the testimony of Blocker, who was the indispensable witness of the Commonwealth, because in an offense of this kind there must be an identification of at least three of the defendants participating, and that is insisted upon. Blocker was the only one who did it, and I talked about Blocker at length, who is an elderly illiterate junk man who happened to be on the scene. He had done business with Gleba for many years.

Blocker was shown these men, not once, but several times, immediately following their arrest and in the jailhouse, and he said several times, "I cannot identify any of these men." He later had an opportunity to identify them about six days later at a Justice of the Peace hearing, and could not identify any of them. About six more days later, at a Justice of the Peace hearing, he identified two of them. At the trial he tried to identify the same three, but he got mixed up as to one of them, and he wound up by identifying four.

Another point I brought out about Blocker was that roughly a month after the trial was over he was indicted for larceny. He plead guilty.

I also brought out the fact that when Mr. Blocker was testifying to these identifications, of these five men, he was, of course, put under very heavy cross-examination by Mr. Kraft because—well, I suppose I might as well mention this now, both Mr. Kraft and I have always thought that Blocker intentionally perjured his testimony. He was being cross-examined very heavily. And in the course of the testimony an objection was made and the trial judge at one stage characterized Mr. Blocker as a very fair witness doing his best to tell the truth. We asked for the withdrawal of the jury because of that characterization which we regarded as unfair, and which was denied.

BY REPRESENTATIVE BELL:

Q Was that Judge Irvin?

A Yes, sir.

Now the next point I made concerned the atmosphere of the trial. Something was said about that in the earlier hearing. I argued this point to the Pardons Board. I made it crystal clear that I was not charging any intentional bias to the judge or to the jury, but that I said this was a serious crime that was committed. This riot, of course, was a very serious matter, and I made no defense of it whatsoever. It was a vicious thing. I pointed out that I thought the court and the members of the jury and the entire community would be less than human if they didn't feel a very hot resentment against what took place there that afternoon. I said that I felt that this very natural resentment against a riot that took place on public propery created an atmosphere we simply couldn't anticipate, and at the trial we could not overcome it. I know Mr. Kraft and I have always felt—and I argued this before the Pardons Board—that these men were not convicted on the basis of facts, but they were convicted largely on the basis of an adverse atmosphere.

Now, one of the points I argued a little earlier than at this point, or when I presented this case orally, concerned the great difficulty which we had in the courts. The difficulty in the courts grew out of the fact that there never is the clear issue of innocence when you are appealing a case, defending a case in the Appellate Courts. When you try to argue innocence, the court will answer you by simply saying, "Well, if there is any evidence to go to the jury, then we will attach irrevocable finality to that jury verdict." And that's what we were up against in the court. They simply attach irrevocable finality to that jury verdict. And when we argued about innocence, the only reply you would get is, "Well, if there was any evidence to go to the jury, that's final." And, of course, the evidence that took this case to the jury on the part of the Commonwealth was that wholly unreliable contradictory testimony of the elderly and illiterate junk man. And the jury believed that, I think, largely because of that highly hostile atmosphere, even as against the evidence based on incontrovertible facts, which we said pointed to the innocence of these men.

So that we simply never had the clear issue of innocence when we were in the courts, and I told the Pardons Board that the only tribunal in this state where you have the opportunity to argue that simple issue of innocence is the Pardons Board. It is only the Board of Pardons that has that power. That was, of course, the first argument.

BY ATTORNEY GENERAL McBRIDE:

Q Now then, you received notice that the application had been refused?

A Yes sir.

Q Did the application say that it had been refused on the grounds that the men had not yet been to jail, or that it was refused upon the merits?

A It did not.

BY MR. KOHN:

Q Do you have a copy of it?

A No, but I know that all it said was that the petition was denied or refused.

ATTORNEY GENERAL McBRIDE: Refused; that is all they ever say.

SENATOR SCOTT: That is normal procedure when they refuse them? They don't give any reason; is that it?

ATTORNEY GENERAL McBRIDE: That is right, and the card simply said "Refused," but that's why I am leading up to the next question.

BY ATTORNEY GENERAL McBRIDE:

Q Now, after receiving notice that it had been refused and not knowing if it was on the merits or on the procedural ground, did there come a time thereafter when the men did go to jail?

A Yes, the men were committed to jail on October 13, 1955.

Q Thereafter, did you question anybody connected with the Board of Pardons or its staff as to the proper procedure to be followed to secure a re-hearing?

A I did. Of course, as soon as these men went to jail there was tremendous pressure from them and their families on us; that is, on me as an attorney, to get those cases before the Pardons Board again. Despite the jury verdict, which was affirmed by the courts, these men certainly never accepted the fact that they were guilty, and they always acted and talked to me like men who were innocent, and, of course, I thought they were innocent. Their wives, their children, their friends, and members of their Union certainly all believed in their innocence. They were eager to have me go before the Pardons Board again just as soon as possible. It was my judgment that they should not go immediately; that they should at least wait a few months.

They were putting on enormous pressure to try to get them out before Christmas because they just could not abide the thought of being away from their wives and children on Christmas. I simply dissuaded them from going too soon, but I did, of course, want to go in time to get them pardoned. I hoped that they might be pardoned in the course of three or four months, or somewhere around there.

BY MR. KOHN:

Q Will you answer the question, Mr. Trescher?

A Yes, I will answer it right now.

It was about the middle of December that I decided that I had to go ahead and file something, hoping that they would get out early in the coming year. And I had been put on the horns of a dilemma by reason of having gone before the Pardons Board while the men were still in court, before they went to jail. I always felt that I made a pretty good impression on the Board.

MR. KOHN: Let's get to the questions and answers.

ATTORNEY GENERAL McBRIDE: Don't interrupt him. I don't think you ought to—

MR. KOHN: I don't think the committee is interested in what impression he made on the Board or what impression he did not make.

ATTORNEY GENERAL McBRIDE: Just a minute. Will you address your remarks to the Chairman instead of interrupting the witness?

MR. KOHN: Mr. Chairman, I think we ought to get right down to the questions in fact here instead of Mr. Trescher telling us what impressions he made with the Board of Pardons. It is all in the record.

ATTORNEY GENERAL McBRIDE: If the Board says that, that is a different thing.

CHAIRMAN TOMPKINS: Well, of course, what Mr. Trescher's own feelings on the matter are of little concern to us, nor do I think to the Pardons Board. As to what he did, however, on behalf of these men is of some importance.

MR. KOHN: I have no objection to that.

ATTORNEY GENERAL McBRIDE: All right, but I do not think it is proper for counsel just to butt in on the witness that way. I think he should address the chair.

MR. KOHN: Mr. McBride, I intend to butt in if he is going to make a speech.

ATTORNEY GENERAL McBRIDE: Just address the Chair. That is not asking too much.

MR. KOHN: I will, sir.

BY ATTORNEY GENERAL McBRIDE:

Q Go ahead, Mr. Trescher. The question is, being faced with that difficulty, what did you do about it?

A I did not know whether the case had been turned down on the grounds of policy or on the merits, and I wanted to get back before the Pardons Board reasonably soon. I knew that if it had been turned down on the merits, there was a one-year rule which I faced, because under the rules he cannot go before the Pardons Board short of a year after he had been turned down unless there are new and compelling reasons. On the other hand, had he been turned down as a matter of policy, just because the cases were previously before the courts, I feet that there was no reason why I should not have gone back before the Pardons Board any time I pleased.

I called Mr. Hean to find out whether I had been denied that original pardon on the merits or on a matter of policy, and just where I stood as to my right to go before the Pardons Board again short of the year.

Mr. Hean told me that he did not know the answer to that question and that I should get in touch with the Attorney General, Mr. Cohen, to get his views on it, which I did. I called Mr. Cohen and asked whether I could come down to see him to discuss this procedural question. I also told him that I was trying to leave the following day for a vacation in California and that I would appreciate a chance to see him soon. And he said to come down any time; he would see me some time that day. So I then asked my associate, Mr. Fawcett, to join me in going to Harrisburg, because I wanted him to do anything that had to be done while I was away. I then

called the head of the Local in Philadelphia, a Mr. Lavery, and asked him if he had somebody at the Union who could provide transportation to Harrisburg, and he said he would take me down himself. So Mr. Lavery, Mr. Fawcett and I drove down to Harrisburg. We went in to Mr. Cohen's office. We sat around there for an hour or so, and finally Mr. Cohen came in and said, "Come in." Mr. Lavery and I stepped in. I asked Mr. Cohen the question as to where I stood, after explaining my dilemma. He said that he saw no impropriety—

BY MR. KOHN:

Q Who said that?

A Well, Mr. Kohn, I do not know what his exact words were. He said that it would be all right to file a new petition.

Q What is this that he said to you about impropriety?

A I do not know—

ATTORNEY GENERAL McBRIDE: He said there was no impropriety, and he was going to continue, before he was so rudely interrupted, by saying there was no impropriety in filing a new petition.

THE WITNESS: Well, I must say that I could not begin to tell you the precise words used by Mr. Cohen, but my general recollection is that he told me there would be no impropriety, or words to that effect, in filing another petition before the Board of Pardons.

I then explained to him that I was very eager to have this case heard as soon as possible, and I asked whether it would be all right to file a petition for an advanced listing. He said that it would be entirely in order to do so; that any such petition would be considered by the Board as a whole, and that I would simply have to abide by the action of the Board.

When I got that answer, I got out as fast as I could, because I did not want to run any risk of his changing his mind. Mr. Fawcett, Mr. Lavery and I went back to Philadelphia, and I don't think I returned to the office that day. I went right to my home, and the next day I went off to California for about two or three weeks.

Mr. Fawcett, in my office (my associate), I told of my meeting with Mr. Cohen. Of course, he was in the ante-room; he did not attend the conference that I had with Mr. Cohen. I told him what I wanted done. He then followed up by filing a new petition, together with a letter addressed to Mr. Hean, I think it was, asking that these cases be given an early listing. Mr. Fawcett tells me that he either had a talk with Mr. Hean on the telephone or a letter from him, I forget which, in which Mr. Hean said that the way to handle this case was not to file this petition; that we might as well save our money. He said, just file an application, a separate application, for a re-hearing on the old petition and that will be taken up by the Board.

And the next thing I knew about it was when I returned from California and Mr. Fawcett told me that these cases were to be argued some time in January, January 18th, and I came down on January 18th and argued them.

BY ATTORNEY GENERAL McBRIDE:

Q How long did the first argument take?

A Well, as I recall, the first argument took somewhere over an hour; I would say between an hour and an hour and a half.

Q Now, on the first argument, you say Mr. Finnegan was present?

A That is correct.

Q Was Mr. Finnegan present on the second argument?

A He was not.

BY MR. KOHN:

Q Were you present?

A I was. I made the second argument.

BY ATTORNEY GENERAL McBRIDE:

Q Were you in the room when Mr. Hughes of Delaware County graphically described Mr. Finnegan's statement that the second argument was in contradiction of the official transcript?

A I was.

Q How long did the second argument take?

A I would estimate some time between an hour and an hour and one-half.

Q Did you at any time during this case talk over the merits of the case with Attorney General Cohen, or attempt in any way to influence him by any improper motives?

A Well, of course, I never attempted to influence him by any motives at all. I did talk over the merits of the case sufficiently to explain to him the dilemma I was in and the procedural problem I had. I had to tell him that I had argued the earlier case on the grounds of innocence, but that the policy question was injected into the argument by the Board. But we did not get into the details of the case at all.

Q Did the filing of the petition for clemency have the full approval of President Judge Kraft?

A It certainly did.

Q Did he authorize you to make a statement for him to this Board?

A Yes, he did. He, in a three-way telephone conversation with you, Judge Kraft and myself—and which he has re-affirmed in one or two conversations since then that I have personally had with him—has authorized me to say that—

CHAIRMAN TOMPKINS: Just a minute. I want to ask you a question here at this point.

BY CHAIRMAN TOMPKINS:

Q Judge Kraft is now a Federal Judge, is he not?

A That is right.

ATTORNEY GENERAL McBRIDE: He wants to tell the Board—

CHAIRMAN TOMPKINS: We are perfectly willing to take testimony of this kind, but if Judge Kraft is so vitally interested in this, I was wondering whether or not he would care to submit a letter to this committee.

ATTORNEY GENERAL McBRIDE: He will. Do you remember, Mr. Chairman, that I stated that before, and that I told the committee that Judge Kraft said he would submit the letter? He will not volunteer at all because he is a Federal Judge, but he awaits the pleasure of the committee. If the committee will write to Judge Kraft and say that they would welcome any views he wishes to express in this matter, he will be delighted to comply in any way that the committee wishes.

REPRESENTATIVE BELL: Mr. Chairman, maybe I am somewhat confused. It sounds as though we are re-trying a Pardons Board case, and I know their objections raised to that earlier. To me the only question is whether, when this pardon was sought, it was done in a proper way or whether it was done in an improper way; not whether the men were innocent or guilty. Now am I wrong or right on that?

ATTORNEY GENERAL McBRIDE: I certainly think you are right, with one qualification, Mr. Bell, and that is if the arguments that were made were based upon innocence, and the lawyers, one of whom is presently a Federal Judge, believe in that innocence, it tends to be some evidence that the reasons relied upon were proper ones rather than improper ones.

Mr. KOHN: Those are not the reasons they gave in the commutation.

SENATOR SCOTT: Well that was going to be the question I was going to ask. What are the final reasons?

ATTORNEY GENERAL McBRIDE: That was asserted in the petition itself.

REPRESENTATIVE BELL: Mr. McBRIDE, of course I do not think you are taking the position that because an attorney feels that his client is innocent—and I think most attorneys do feel their clients are innocent—that that is any reason for a member of the Board to talk over the merits of the case prior to a meeting of the Pardons Board.

ATTORNEY GENERAL McBRIDE: No, I would not say that at all. The Attorney General did not talk over the merits of this case; he talked over the procedural aspect.

REPRESENTATIVE BELL: Sir, the testimony that I took down in my own handwriting here was that the witness stated that he talked over the merits of the case with Mr. Cohen.

ATTORNEY GENERAL McBRIDE: The merits of the case as they affected the procedural question is what he said, Mr. Bell.

REPRESENTATIVE BELL: I will rely on the record.

ATTORNEY GENERAL McBRIDE: Sure, so will I.

SENATOR SCOTT: Mr. Chairman, the question with which we are faced at the moment is whether we are going to let this witness tell what a third person told him to pass on to this committee. That is the dilemma we are faced with, as to whether we are going to receive that or not.

ATTORNEY GENERAL McBRIDE: I concede under strict principles of evidence it is hearsay.

CHAIRMAN TOMPKINS: We have been rather liberal in admitting this type of information previously. We would like very much to have Judge Kraft submit his statement to the Board in writing, although we would like also to have the Judge before us for cross-examination.

ATTORNEY GENERAL McBRIDE: Mr. Bell knows Judge Kraft.

SENATOR SCOTT: If Judge Kraft wants this Board to know that he feels the people are innocent—and I presume that is exactly what he is going to tell us—I certainly have no objection to your passing that on to the committee for what it is worth.

BY ATTORNEY GENERAL McBRIDE:

Q And further, he authorized you, Mr. Trescher, did he not, to say that to the Board, and to say further that if the Board communicated with him he would be glad to place his views of the matter as to any question submitted by the Board to him upon the record in any way that the Board wanted it?

A That is correct, sir.

BY REPRESENTATIVE BELL:

Q Mr. Trescher, did this statement of Judge Kraft come following a request from either you or General McBride to him?

A Yes. Immediately at the close of either the first or second day of the hearing, Attorney General McBride and I had a three-way telephone converastion with Judge Kraft to discuss his views of this case, and he at that time authorized these statements.

Q Who telephoned whom?

A I telephoned Judge Kraft from Mr. McBride's office.

BY CHAIRMAN TOMPKINS:

Q Very well, proceed.

THE WITNESS: Well, the answer to the last question is that Judge Kraft authorized me to say that he re-affirms his belief in the innocence of the men; that he has always believed that they were convicted on the intentionally perjured testimony of Mr. Blocker; that he believes the absence of duct or dirt on the bodies or the clothing of these men is uncontrovertible proof of their innocence. He believes that the time element also proves their innocence. He believes that the sentence of two years, plus fifteen hundred dollars fine, was excessive under the circumstances; and that viewing the facts in the light even most unfavorable to these men, that a six-months' sentence would have been abundant. And then, he went on to say that he will confirm this in writing, or, if the committee would like to have him testify personally, he would be glad to come at the committee's request.

Q Now, he speaks of perjured testimony. Was the issue of this testimony raised at any time in connection with the application for a new trial, or at the original trial?

A Yes sir. Those questions—the credibility of Blocker was argued before the courts.

Q Was that before or after the veridct?

A Well, it was argued, of course, to the jury. It was argued before the lower court on a motion for a new trial.

Q Well, the question of the credibility of this witness was argued before the jury, then?

A Oh, yes.

Q And the jury believed that the witness was telling the truth?

A That is correct, apparently so.

Q Do you engage in much criminal practice?

A Very little.

Q Have you ever represented a case that went before a jury where you did not believe your client was innocent.

A I have had little or no experience in criminal work, frankly.

Q It might interest you to know that Mr. McBride, in

his seventeen years' experience in the District Attorney's office, never had a defendant come before the court who went to a jury that the defendant counsel did not think the defendant innocent and protected his innocence until the end.

ATTORNEY GENERAL McBRIDE: That is exactly contrary to my own experience. I have represented hundred of men whom I did not put on the stand because I did not want them to commit perjury.

CHAIRMAN TOMPKINS: You still believe in the cause of your client?

ATTORNEY GENERAL McBRIDE: Certainly I believe that they have the right to put the Commonwealth to proof and no self-respecting lawyer would ever give up such a prerogative. But having them testify falsely when you know they are guilty is a horse of another color. But I do not think I have ever, except on rare occasions—and any self-respecting lawyer that I know of does not go around blathering about his client's innocence where he has doubts about it or where he thinks he is guilty. He will leave the issue to the jury and to the courts to settle.

BY SENATOR SCOTT:

Q All of these reasons, Mr. Trescher, that you gave before the Pardons Board, except one or two of the persons involved, were presented to the jury, weren't they at that time?

A That is correct. May I ask, Senator Scott, you made some comment about my arguing the merits to Mr. Cohen? I only discussed the merits of the case in my conference with Mr. Cohen to the extent of telling him that I had argued to the Pardons Board that these men were innocent, but I did not assign any reasons.

Q The question was raised whether you actually made the statement as to whether you discussed the merits with Mr. Cohen, and I think the records will show that you did discuss the merits with Mr. Cohen. Then you qualified that with what you just said.

A Yes, I want to make that clear.

BY CHAIRMAN TOMPKINS:

Q Mr. Lavery was with you when you went in to see Mr. Cohen, was he not?

A That is correct.

Q Was he introduced to Mr. Cohen?

A Well, I assume so. I do not have a distinct recollection of introducing him, but I would say yes.

Q Who is Mr. Lavery?

A Mr. Lavery at that time was acting as the President of the Philadelphia Local of the International Union of Operating Engineers, and I think he is still in that same position.

Q Was that position made known to Mr. Cohen when you paid your visit to him?

A I just do not remember one way or the other. Frankly, I have no independent recollection of Mr. Lavery even being there, because I am quite certain that he did not say anything and nothing was said to him. But he told me that he walked into the room with us and I, of course, assumed that he was introduced to Mr. Cohen.

Q Is that the same Mr. Lavery who is now under indictment in the Tobyhanna case?

A I understand that it is.

BY REPRESENTATIVE BELL:

Q Did Mr. Lavery know Mr. Cohen?

A I have no idea.

Q Well, was there any familiarity between Attorney General Cohen and Mr. Lavery?

A No.

Q Do you drive an automobile?

A I do.

Q Is it customary when you come to Harrisburg, such as when talking with the Attorney General, to ask your client to drive you here?

A Well, I frequently will ask the Union to drive me somewhere, particularly when I make the engagement on the spur of the moment, as I did in this case. I would say it is very common for one of the business managers or agents of the Union to drive me here and there. It happens frequently. For example, when I visited the men out in Broadmeadows I would almost always be driven out by one of the members of the Union because there is simply not any public transportation, and I just never take my own car into town.

Q Was the sole reason for your obtaining union transportation to Harrisburg on that date so that you would have transportation?

A That is correct.

Q And it was not for the purpose of taking the Union man in to meet Mr. Cohen?

A No, that was not the purpose at all; it was solely for transportation.

Q Why did you take him in?

A Well, as I said, I have no independent recollection of his even going in, but Mr. Lavery told me that he did step in with us. It was just one of those things that happen on the spur of the moment for no particular reason.

BY CHAIRMAN TOMPKINS:

Q Why didn't Mr. Fawcett go in with you too?

A Well, I asked him that, and he told me that he was in and out doing other business and he is not even sure that he was there when Mr. Lavery and I walked in, but he was there when we walked out, as he tells me that Mr. Lavery was with us.

Q Then Mr. Fawcett did not go in to confer with Mr. Cohen with you and Mr. Lavery?

A No. Mr. Fawcett did not know anything about the case up to that point.

BY REPRESENTATIVE BELL:

Q To your knowledge, was Mr. Lavery engaged in poltics in the City of Philadelphia?

A To the best of my knowledge he is not, but I do not really know Mr. Lavery personally. It is just a lawyer-cient relationship.

BY SENATOR SCOTT:

Q In this case, the Board finally did recommend commutation of the sentence, didn't they?

A That is right.

Q Have you ever seen the reasons that they submitted to the Governor?

A Well, I think there was some reference to them here and in an earlier hearing.

Q I do not recall what those reasons were, and after listening to your argument before the Pardons Board as to why a commutation should be given, I would like to hear what the Board actually decided and the reasons for their decision.

A Well, of course, I have never seen them myself.

BY REPRESENTATIVE BELL:

Q I would like to ask you another question regarding Mr. Lavery. He was the President of the Local?

A Well, he was in charge of the Local. You see, the Local is under the supervision of the International and the actual agent sent in by the International to supervise the Local is Mr. Hunter Wharton from Washington, but I think that he uses Mr. Lavery as his assistant in charge of the Philadelphia picture. Frankly, I do not know what his exact title is, but I know that he has the major responsibility for that Local.

Q On your other trips when you have had Union transportation, was Mr. Lavery your chauffeur?

A He was at times. There were two or three others who would drive me from time to time.

Q Were they always people in similar positions as Mr. Lavery?

A No, I think Mr. Lavery was the top man. The others were business agents as far as I know.

BY SENATOR SCOTT:

Q You might be interested in knowing that the Board was pretty much convinced by the arguments which you made, because one of the reasons that they gave for approving commutation was that at the time of the trial the feelings of the citizens of Delaware County were such that the court and jury were undoubtedly influenced by the attitude of the general public.

BY CHAIRMAN TOMPKINS:

Q Did you have a change of venue for these cases?

A No, we did not.

Q From the arguments there that you have given to this committee, do you think that you would have been justified in asking for a change of venue?

A No, because we had no way to anticipating the kind of atmosphere that prevailed, and I want to make it clear that I do not charge the court out there with any intentional bias in this case. I am most emphatic on that point. I do not charge the court or the jury with any intentional bias. I simply say here is a serious crime conducted on public property in the very shadow of the court house, which outraged the whole community, particularly the police, the court and public officials generally. And I simply argued to the Pardons Board that they would all be less than human if they did not feel some outrage about that situation, which in some way we feel was reflected in the verdict.

Q You did have some preconceived feelings, however, that a situation of that kind existed?

A Well, nothing of—

MR. CHAIRMAN: If I may, the gentleman, I think, has to leave at 3:30, and we have not even permitted our own counsel to do any cross-examining. I think that we should let him do so.

(Discussion off the record.)

BY SENATOR YOSKO:

Q Now wait a minute. I have a couple of questions here. Mr. Trescher, I am not going to try to define a politician, but I suppose you know what a politician is. Are you a politician?

A No sir.

Q You already said that Mr. Lavery was not a politician, to the best of your knowledge.

A To the best of my knowledge, he is not, but I do not know Mr. Lavery personally.

Q Is Mr. Fawcett a politician?

A No sir.

Q Before you came to Harrisburg to see Mr. Cohen did you or Mr. Lavery or Mr. Fawcett call any politicians to tell Mr. Cohen that you were on your way up, and to grant you any courtesies or favors?

A No sir.

Q What arguments did you present at the second hearing that you didn't present at the first hearing?

A Well, I pretty much reviewed the same substansive matter that I have heretofore discussed, but at the second hearing, since the men were then in jail, I talked about the excessive sentence. I said that we were shocked by the two year sentence with $1,500 fine; that I felt, particularly in view of the unreliable character of Blocker's testimony, that looking at the facts in the light most unfavorable to these witnesses, a sentence of a few weeks or a couple of months would have been abundant. And I also then talked about the clean record of the men. I would like to emphasize that here, because these men have been characterized in earlier testimony here as being hoodlums. They are not hoodlums and they never were. These men had crystal clear records before this trial. I also talked about their good behavier in jail at the second hearing, and I went into the second hearing with a letter from the warden. I don't recall the exact wording of it. I presented it to the Board and it's probably in the file, but in it he says that they did not require further rehabilitation. And I argued to the Board that that was really an understatement of his views compared to what he had told us orally; that he had always said to us orally that these men were fine boys who were not the kind to be in jail; they were his best boys. And I felt that in interpreting that letter it was clear that he felt there was no purpose whatsoever to be served by their staying there any longer.

Then I wound up by arguing that in the interest of justice, I felt the Pardons Board ought to exercise its power of clemency in this case.

Q When you were engaged to represent these defendants, who was it who engaged you? Was it the defendant himself or Mr. Lavery?

A Well, it wasn't Mr. Lavery. At first it was Mr. Fortman, who is the supervisor in charge of the Local. He happens to look after their interests on behalf of the Union and, of course, I immediately called the men in and told them that they had the right to get their own counsel, or they could do as they pleased by way of the defense of their case, but that the Union was willing to provide them with legal service if they wanted it, and they said they wanted us to take care of them and then we talked about local counsel and they agreed that Mr. Kraft should represent them.

Q How did Mr. Lavery get into it?

A Well, Mr. Lavery eventually came into the picture, as I understand it, he came in some months after that as an assistant to Mr. Wharton, in charge of the Philadelphia Local. You see Mr. Wharton was down in Washington and could not be in Philadelphia all the time.

Q When you decided to ask Mr. Lavery to drive you to Harrisburg and to take him along, did you do that because he was a client or a semi-client, or because you wanted to take him along as a means of using pressure on somebody up here?

A I did not take him along as a means of using pressure upon anyone. I simply called him to find out if there was somebody who could drive me to Harrisburg so that I could get down there in a hurry and get back. I wanted to leave for California the next day and that was an item I wanted to clear up in a hurry before going to California.

I asked him if there was somebody who could drive me to Harrisburg, and he said "I'll do it myself." So he picked me up in ten minutes or a half hour and we drove off.

SENATOR YOSKO: All right, I have nothing more.

CHAIRMAN TOMPKINS: Mr. Kohn?

CROSS EXAMINATION

BY MR. KOHN:

Q Mr. Trescher, I called you last Friday and told you I was sending Mr. Evans down to interrogate you.

A Yes sir.

Q At that time you asked me what we wanted with the Union records, didn't you?

A Yes sir; well, let's hear that again.

Q At that time you started to question me as to what I wanted with the Union records; why I was getting them. Did you or didn't you?

A That I don't recall.

Q Don't you recall mentioning that?

A The Union records—well, if he didn't mention the Union records to me I wouldn't have known you had any.

Q You asked me what I wanted with them, why I was getting a copy of the Union records?

A No, I have no recollection of that.

Q You don't have any recollection of it?

A I have no recollection of any such conversation.

Q Do you deny that you might have said that?

A I say I have no recollection of any such conversation.

Q When did you receive notice from Judge Clary that we were asking for Union records?

A Well, I think some of my partners told me on Wednesday.

Q Wednesday of last week before I called you?

A Well, I don't know whether it was before or after.

Q Well, it was Wednesday of this week?

A No, it was last week.

Q Can't you tell me when it was last week? I called you Friday, didn't I? I called you for an appointment on Friday? I called Judge Clary for an appointment Thursday and told Mr. Evans to be here Friday at eleven o'clock.

A I thought you called me Wednesday but I am not sure. It isn't clear in my mind.

Q Mr. Evans did come down to see you Friday, didn't he?

A Yes.

Q And those records, the Union records, were in the hands of the Court then, weren't they?

A That's right.

Q Mr. Evans asked you on what date did you meet Mr. Cohen, and you told him December 19, 1955. Is that right?

A That's correct.

Q He asked you, did Mr. Cohen have anyone else with him during the discussion. You said, no, Mr. Cohen was alone. Is that right?

A No, I did not say that. I said that I wasn't sure. I said that I had no independent recollection of it.

Q Mr. Evans asked you if you had anyone else with you, and your answer was, John Fawcett was with me but he was not taking part in the conference, is that right?

A That's right.

Q Mr. Evans asked you if there was anyone other than John Fawcett with you. Your answer was, yes, we had a driver from the Union and went in one of the Union cars since we represent the Union frequently, and when we want to go somewhere in order to avoid the necessity or delay in using public transportation, we would call Union Headquarters, and they would send up a car with a driver to take you wherever you want. Is that right?

A Well, not in just those words, but that's substantially right.

Q And he asked you what was the name of the Union driver and your answer was, I don't recall, but it was possibly one of four men—a fellow by the name of Edwards or Gaul or Lavery or another person whose name I can't think of at the moment, but I will find out for you. Did you say that?

A No, I told him that I thought it was Mr. Lavery but I said I would find out. I would talk to Mr. Lavery and Mr. Fawcett to be absolutely sure.

Q You didn't mention Gaul or Edwards?

A I did, I said that from time to time I drove with a Mr. Gaul and a man named Edwards.

Q Did you say they might have driven you?

A I did not.

Q Why did you mention them?

A Because I said to him that there were times when these other men did drive me from place to place.

Q You said Mr. Fawcett, your partner, remained outside while you took Mr. Lavery in, is that right?

A That is right.

Q Now it just so happened Lavery was driving, but it could have been anyone, Gaul or Edwards or anyone else, on this particular case. You didn't request Lavery, did you?

A No, I didn't ask for Mr. Lavery.

Q And he happened to be the Chairman of the Union, didn't he?

A I told you I am not sure of his title.

Q You saw the records. You had the Union records. You represent the Union, don't you?

A I do not personally know—

Q Didn't you see the records of the Union?

A I have not seen the records.

Q Have you ever seen them?
A Never.
Q Did you look at them down in Judge Clary's office?
A I did not.
Q Well then, you found out it uses Lavery, didn't you?
A That's right.
Q And you took Mr. Lavery inside with you and you left Mr. Fawcett outside?
A You say I took Mr. Lavery inside. He came in with us.
Q You didn't object?
A No, I certainly did not.

Q This is the Harry W. Lavery who was under indictment wtih the Tobyhanna Signal Corps in connection with Congressman Green from Philadelphia, isn't it?
A That is correct.
Q And it so happened you took your driver in and left the lawyer outside, your partner, is that right?
A I don't recall. I'm not even sure if Mr. Fawcett was in the waiting room when we walked in. In any event, he did nothing about the case and didn't choose to go in.

Q Didn't you talk to me Monday of this week and tell me that you had wanted to make a correction on what you told Mr. Evans, and that you found out that it was actually Mr. Lavery who drove you, and I told you that it was soon time you found out what the score was, and I already knew that?
A I didn't tell you that I wanted to make a correction; I told Mr. Evans that I would ascertain for certain who drove us, and I told you it was Mr. Lavery.

Q Now why would you take Mr. Lavery, the Chairman of this Union into a conference with Mr. Cohen, the Attorney General?
A Well—
Q Well, what did he have to discuss with Mr. Cohen on procedure?
A Well, Mr. Lavery was the head of the local at that time.
Q Was he interested in procedure or in driving you to Harrisburg?
A He was certainly interested in righting a wrong.
Q He was interested in finding out what could be done?
A He was just as much interested as I was in knowing whether we were going to have to wait a year to reargue these cases.
Q Do you take your clients into the judge's office to find out what he is going to do about things?
A Well, I have not.
Q Well, Mr. Lavery did not send the letters out?
A But I have often had clients with me to see lawyers.
Q There is nothing unusual about that?
A No.
Q There is something unusual about taking a client to see a judge and discussing a case with him, is there not? There is something unethical about it?
A No. In a matter pending before a Court I think it would be rather unusual to take a client before a judge.
Q The Court would not stand for it very long?
A But, of course, he was not one of the men involved.
Q No, but he was involved in paying your fees, was he not?
A Oh, sure.
Q And involved in having an interest in these five men who were in jail. You did not know that Mr. Lavery had a meeting of which he was Chairman on December 19th? You did not see these minutes, did you?
A No.
Q In those minutes it said the Chairman, Mr. Lavery, explained that he was not present at the Board meeting of December 19, 1955, due to his having to appear before the Attorney General of the State at Harrisburg that day with two of the local Union's lawyers to make every last minute effort to try to have the five brother members at Media released from Broadmeadows by Christmas. Evidently, Mr. Lavery in explaining his trip with you knew that you had an appointment with Mr. Cohen, and said he had one himself to discuss this case.
A I didn't know anything about those minutes.
Q You don't know anything about those minutes?
A No.
Q How much were you paid by the Union?
A Well, I can't answer that because I don't draw up the bill. There is another partner in our office who does that.
Q Well, you told Mr. Evans that you were paid.
A I told him we were paid but I don't know what.

Q Why didn't you put it on your application for commutation how much you were paid or who you represented? You didn't tell the Board anything about that. did you?
A The men were not paying us anything.
Q You stated on there, the application, "No fee has been paid or agreed to."
A That is correct.
Q Does that mean between the men or between you and the Union, which?
A Well, no fee had been either paid or agreed to by either the men or the Union.

Q You know the requirements of the Board of Pardons, the rule requiring that you disclose to them who and what you were paid?
A No, I don't know any such rule.
Q Now then, after you talked to Mr. Cohen about this special procedure how to get this case on before a year, you left for California, didn't you?
A That's correct.
Q Then you found out from Mr. Cohen the procedure, did you?
A Well, Mr. Cohen said that it would be entirely all right to file a new application under the circumstances.
Q Did he promise you special consideration for an immediate listing?
A He did not.
Q And then Mr. Fawcett back in December 29th prepared and submitted to the Board five applications enclosing a check for $75, didn't he?
A That is correct. Now as to the date that was done, I don't know.
Q That was about—
A Frankly, I don't know. It is in the records.

Q You take my word for it. That money was returned to you, and you were advised that the applications would be considered as rehearings, is that right?
A Mr. Fawcett, yes.
Q And you say you argued the second case before the Pardons Board?

A I did.

Q Then there was the special listing for January, is that right?

A That is correct.

Q Between the time you had seen Mr. Cohen on December 19 and the time the applications were filed, you had filed nothing in writing for rehearing, had you?

A Repeat that again.

Q I said, between December 19th and the time that Mr. Fawcett filed the applications in writing for a rehearing, there had been nothing done requesting the rehearing except your conference with Mr. Cohen?

A Oh no, there was a letter sent to Mr. Hean as I recall it.

Q At what date?

A I don't remember the date of the letter.

Q Who sent that letter?

A Mr. Fawcett, I think, wrote him a letter saying that we would like to have this listed early. That was the extent of the letter. It really was not a rehearing application. It was simply a letter making a request.

Q When was December 19th?

CHAIRMAN TOMPKINS: Do you mean what day of the week, Mr. Kohn?

MR. KOHN: Yes.

THE WITNESS: Probably Friday.

BY MR. KOHN:

Q Are you sure it wasn't Saturday that you were up here on the 19th, Saturday morning?

A I don't think so because I know I flew to California the next day, and I would normally start a vacation on Saturday.

Q When you went back, when did you leave for California?

A The following morning.

Q The following morning; and you had been in your office the next morning?

A No, I did not go to my office that morning.

Q Do you know if Mr. Fawcett sent a letter out Saturday morning to the Board, when this was Friday?

A He probably did. You see, he was with me and on the way home I explained to him that he should go ahead in my absence.

Q If you were going to get a special listing and a rehearing, why did you have to file new applications when you found out the procedure?

A Well, all I said to Mr. Cohen was, is it all right to file a new application, and he said, yes. And we started off by filing a new application. The reason for that is this, that we had originally gone in and asked for a pardon only. You see, the men were not in jail, so there was only one thing we could ask for—a pardon. And as soon as possible after the men went to jail, we prepared a new set of papers, this time in the form of a petition.

Q For rehearing, you prepared them?

A Yes, I prepared it originally. I mean the long application. I preparaed that soon after the men went to jail, and I had them signed.

Q That was the original application for a pardon?

A No. I had prepared the original petitions for pardon before they went to jail. Then after they went to jail, I prepared another set of papers asking for either a pardon or a commutation. And when Mr. Fawcett filed those, Mr. Hean said this is wrong.

Q That was after you had the conference with Mr. Cohen?

A Precisely. Then Mr. Hean thought Mr. Cohen was wrong in this procedure and thought all of us were wrong.

Q He sent you to Mr. Cohen to get the procedural advice with Mr. Lavery?

A The first time, yes. But all that, of course, was limited to the point of whether we were barred by the one-year rule simply to clear up the question of whether the first decision was based on policy or on the merits.

Q And the Board on December 21, 1955, two days after you left here, promptly gave you a special listing, did they not?

A I do not know how soon that happened. I heard about it when I came home about two or three weeks later.

Q Well for the record, I would like to read this: It says the executive session was held December 21, 1955. at 3:30 p.m., Room 187, Board Office, to consider the held-over advisement cases. Under that it says, the Board allowed special listing at the next session, January 1956, for the following: McSorley, D'Antonio, Dendofer, DiMarco and Rainier.

Now if you came up here with Mr. Lavery on the 19th, you got pretty prompt action, did you not?

A Well, it was satisfactory action from my point of view.

Q You said to the Board when you argued the case the first time that you did not want to see these men go to jail and that they were not guilty, did you not?

A That is right.

Q The District Attorney also argued this case before the Board?

A That is right.

Q So you do not know anything about Mr. Lavery having an appointment with Mr. Cohen, do you?

A Do you mean other than the time he and I met with Mr. Cohen?

Q Yes. He says here in the Minutes of the Union that he had an appointment with Mr. Cohen; that you and he and Mr. Fawcett had an appointment with Mr. Cohen on December 19th. That is the reason he could not be at the meeting as chairman on December 19th. You did not know anything about that appointment, did you?

A All I know is that I called Mr. Cohen that morning and asked if I could see him, and he said, "yes."

Q That does not answer my question. Did you know Mr. Lavery had an appointment?

A No, I did not know about it.

Q You just happened to hit Lavery when you asked for a chauffeur?

A Well, when you say "so happened," he was the head of the Union, and he was the man I contacted when I wanted anything done in the Local.

Q This strike that you are talking about was an argument between the International Union and the Local? The Local had agreed to the terms and the International would not stand for it. The Local sent out these men to create this bottleneck business, did it not?

A That is not correct.

Q Well, didn't the Local agree to—

A The Local conducted a strike for twenty weeks or more. Toward the tail end of that strike, the terms of settlement were offered by the contractors which were on par with what the members of this Union were getting in other areas. The International negotiated with the Local to try to get it to accept these terms and let the men go back to work, and then it was only at the end of the strike and after this particular riot was all over that the Local and the International got into any kind of a battle.

Q You were asked specifically by a member of the Board of Pardons whether you made any investigation to find out who the real culprits in this Union fracas were who caused this riot, were you not?

A I do not remember that.

Q You were trying to square yourself in this riot, were you not?

A I do not believe I was. I do not recall if I was.

Q The Secretary of Internal Affairs asked if you knew of any efforts either on the part of your clients or those who actually did take part in this riot.

A I am sorry. You said Pardons Board. I thought you were talking about this Board. No, I am mistaken.

Q Mistaken about what?

A Well, who asked that question? I was thinking in terms of whether somebody in this particular Board asked that question.

Q Did you answer, "I suppose anybody would assume that this riot was in some way sponsored by some member of this Union and the operating engineers. The business managers and the people who run the Union find they do not know. It probably was; I do not know. My hunch is that someone in the Union did conduct this riot, certainly it is an irresponsible group?"

A I think there is not much doubt about that. Certainly it is an irresposible group. I think there is not much doubt about that. Certainly all evidence will indicate that somebody in this Union knows.

Q And you did not know that in the Union's minutes of Local 542 dated November 1, 1955, the Union acknowledged that these men were involved and are doing time for the entire Union? Let me read from the record representing the Union, in case you have not seen it, the remarks by Brother Frank Antino, pointing out that the situation of the five brothers was of such vital importance that we should not bicker over it. It is necessary to separate the issues in question. He also pointed out that these men were doing time for everyone in the Local Union. You did not know that, did you?

A Well, I just don't interpret it as you do.

Q I should not think you would. You still think these five men were entirely innocent?

A Absolutely.

Q Whom were they doing time for in the Union, then?

A Well, I do not know.

Q Did they ever tell you—

A I don't know who was in this strike.

Q Did you make any effort to ascertain on behalf of the Pardons Board or the authorities of Delaware County who was in it, or aren't you interested in that?

A My sole interest was in defending these five men.

Q And the intent of getting these five men out and not trying to find out, for the sake of justice, who was really involved?

A I am—

Q You are a lawyer representing the Union here and not these men individually?

A I represent them individually, too.

Q You received no fees from them individually. You were paid by the Union?

A That is correct. The Union authorized me to represent them under those terms.

Q I understand that, but you were not interested at all in seeing justice done here?

A I certainly was interested in getting these men off. That was justice.

Q I can understand that. Now did you do anything else besides being interested in getting them off and trying to find out from the members of the Union or their agents who was liable and produce them and prove your men innocent?

A Well, of course, in the preparation of this case for trial, both Mr Kraft and I made a number of inquiries to try to find out who did engage in this riot, but we never got any information of any value at all.

Q Whom did you attempt to get information from?

A I remember talking to the men themselves, to Mr. Gaul, to a man who was a witness in the case, and to the business agent who got these men together and arranged for them to go out there and picket. I have forgotten his name, but he denied having any knowledge as to who was actually involved.

Q Did you expose to Mr. Cohen who Lavery was when you took him into his chambers?

A Well, I undoubtedly introduced him, but beyond that—

Q Have you ever told Mr. Cohen that you represented the Union and not these men individually and you were being paid by the Union?

A I have no distinct recollection of discussing that one way or the other.

Q I say, you did not discuss it?

A Well, I do not know. I just do not recall.

Q Did you ever disclose to the members of the Board of Pardons that you represented the Union rather than the individuals here?

A Well, frankly, I do not remember. If the question had arisen, I certainly would have disclosed it.

Q You did not feel that was vital?

A No.

ATTORNEY GENERAL McBRIDE: Now Mr. Kohn, I think in fairness one point should be cleared up. You put a question to Mr. Trescher about Mr. Lavery being indicted in Tobyhanna along with Congressman Green. You do not mean to imply that he was indicted for having done anything wrong together with Mr. Green, do you? He is simply one of those who was indicted in Tobyhanna. There was a large number of defendants. Mr. Green was indicted in Tobyhanna, but there is no suggestion on your part that the two of them were indicted for having done something wrong together?

MR. KOHN: I made no suggestion, Mr. Attorney General. I stated a fact and he answered the question.

ATTORNEY GENERAL McBRIDE: Yes, but won't you, in fairness, say that you did not mean to imply that Mr. Lavery was in any way connected with Mr. Green or Mr. Green connected with Mr. Lavery?

MR. KOHN: In this particular instance?

ATTORNEY GENERAL McBRIDE: In the Tobyhanna indictments?

MR. KOHN: I do not know.

ATTORNEY GENERAL McBRIDE: Then you will say that you did not mean to imply that they were indicted together?

MR. KOHN: No. I do not know, Mr. McBride.

ATTORNEY GENERAL McBRIDE: All right.

BY REPRESENTATIVE BELL:

Q May I follow up on that, Mr. Chairman? You are all familiar with this Tobyhanna indictment, are you not? You have read about it in the newspapers?

A Only what I have read in the newspapers, that is all.

Q From what you have read in the newspapers or from other sources, would you feel qualified to say whether or not Mr. Lavery was on very familiar terms with certain Democratic political leaders in the City of Philadelphia?

A I just do not know a thing about the Tobyhanna affair, and I—from all I have seen of Mr. Lavery, I would doubt very much whether he has any connection with people in politics.

Q Who obtained the appointment with Attorney General Cohen?

A I did. I called him that morning.

Q How long did that conversation take place?

A The telephone conversation?

Q No, when you had your appointment up here?

A Why, I would estimate three to five minutes.

Q You were only with the Attorney General for three to five minutes?

A That is right, sir.

Q Now, does Mr. Fawcett drive an automobile?

A He does.

Q And did you request Mr. Fawcett to drive you to Harrisburg?

A No, I did not. You see, we work in the center of Philadelphia and there are very few people who drive their cars to work.

REPRESENTATIVE BELL: That's all.

BY CHAIRMAN TOMPKINS:

Q May I ask you a question, Mr. Trescher? Can you tell this Committee who advanced the $75 filing fee which was sent up by Mr. Fawcett?

A Our firm would always advance fees and then we would be reimbursed by the Union.

Q And in this particular case, was the $75 reimbursed to you by the Union?

A Well, it was paid by the firm by check initially, and then, of course, we would—well, actually we got that $75 back so that there would never be a charge against the Union for that.

Q Who paid you for representing these men?

A Well, the members of the Union, as I understand it, voluntarily adopted an assessment to create a fund for the defense of these cases. We would bill the Union, but I think the Union in turn obtained the money from the members.

Q You do not know whom the Union got the money from?

A Sir?

Q You do not know whom the Union got the money from?

A No, I have no personal knowledge.

Q As a matter of fact, so far as you know, the Union paid your fee for the representation of these men?

A There is no question about that.

Q These men, then, did not pay you anything individually?

A I am quite sure they did not.

CHAIRMAN TOMPKINS: That is all.

REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Now when the appointment was made, were you already in your office?

A Yes. I called him from my office.

Q And did you or Mr. Fawcett have your cars in town?

A No.

Q Was the appointment for the same day?

A Oh yes, for early that afternoon.

Q Was it necessary then that you arrange for some transportation?

A That is right. If we had to rely on the railroad, I am not sure that we could have gotten down as quickly. It was just a spur of the moment appointment, and a spur of the moment decision to go down by car.

Q Now one final question: You are a partner in your firm, and is your firm connected with Democratic politics?

A No.

Q As a matter of fact, your firm, although not in politics, are very sound Republicans, aren't they?

A It is predominantly a Republican organization, although we do have a few Democrats.

ATTORNEY GENERAL McBRIDE: That is all.

BY CHAIRMAN TOMPKINS:

Q Now, Mr. Trescher, you say you spent only between three and five minutes in conversation with Attorney General Cohen, is that right?

A I would say that we were actually with him about that time. We, of course, had to wait a long time in his waiting room.

Q I mean the actual time you spent with him?

A I would estimate between three and five minutes. Frankly, when I got the answer I wanted, I just wanted to get out before he changed his mind.

Q Well now, did it occur to you when you made the appointment that maybe you could have talked to him over the telephone and got the information you wanted instead of coming all the way to Harrisburg just to see him for three minutes?

A That occurred to me, but I do not like to ask serious questions like this one on the telephone because you run the risk of getting a quick answer and then not being able to do much about it. It is always too easy to hang up the phone. So I wanted to see him in person.

Q Mr. Lavery, of course, would not have been with you at that time, would he?

A No, he was not.

CHAIRMAN TOMPKINS: That is all.

RECROSS EXAMINATION

BY MR. KOHN:

Q There is nothing technical about a procedural question that you could not discuss over the telephone?

A Well, the answer to this question determined whether I would wait a year to file a new application or go up some time short of that; and considering my deep feeling about the innocence of these men, to me it was a terribly serious procedural question and nothing that I wanted to discuss on the telephone.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, you say, advised you to contact Mr. Cohen?

A That is correct.

Q Later Mr. Hean gave you all the information, or your partner all the information, covering the procedure, did he not?

A Yes. He told him what procedure he should follow or to take in order to get this matter before the Board promptly. That is correct.

Q Did Mr. Fawcett follow the procedure suggested by Attorney General Cohen?

A Well he, as I understand it, did file the petition. You see, the conference with Mr. Cohen was really a pretty casual thing. I asked him whether it would be appropriate to file these new petitions. He said, yes. Well, when Mr. Fawcett actually filed these petitions. Mr. Hean got in touch with him and said if what he wanted was a prompt rehearing on these things, these petitions really are not necessary. All we needed to do was to file a petition for a rehearing on the basis of the old petition.

So apparently, Mr. Cohen, Mr. Fawcett and I were all wrong on this question of the actual filing of papers. You see, actually Mr. Fawcett and I were completely inexperienced in Pardons Board matters.

Q The advice you followed, or your partner followed, and which apparently you must have transmitted to him following your conference with the Attorney General turned out to be the wrong procedure, wasn't it?

A That is right. Of course, that was incidentally just an incidental procedural problem so that the main one, the one that brought about the conference was this question of whether we had to wait a year on the theory that it would be turned down on the merits, or whether we could go in at any time on the grounds that we had simply been turned down on the policy question.

BY REPRESENTATIVE BELL:

Q Mr. Trescher, I am a little confused by this technical language on something that is merely procedural. I have here the Pardons Board regulations, and on page 5, Section VI (a) it reads: "Applications for rehearing will not be heard until twelve months have expired after the hearing of the last application. The Board, however, on its own motion may order a rehearing at an earlier date."

Do you consider having an order for a rehearing a procedural matter?

A Well—

Q Is that not a substantive victory? We are being pretty technical.

A I did not get your question. Maybe I can clarify it by going over again my basic dilemma here. When I argued by first petition, the cases were still in the courts and the men had not gone to jail, and we got into a great debate before the Pardons Board as to whether or not, as a matter of policy, they could even hear a case while the cases were still in the courts. But yet when the decision came down, it simply said "denied."

Now, I never knew whether my petition had been denied on the merits simply because the Board, in other words, thought these men were really guilty or whether it had been denied because the Board thought, as a matter of policy, they should not act favorably on a petition while the case was still before the court. You see, I felt that if I had lost on the merits, I would have to wait a year; and if I had lost on the question of policy, then there was no point in waiting a year because these men were in jail.

Q I will repeat my question and make it more simple. When you received the right to a rehearing, do you deem that a procedural victory or a substantive victory?

A Well, just as a matter of procedure.

Q Aren't you really drawing the line pretty closely?

A Well, it is a matter of when you are heard rather than the merits of the case.

Q Sort of lawyers' talk, too?

A Well, you have to draw a line in answer to your question. And I say it is procedural.

BY ATTORNEY GENERAL McBRIDE:

Q What else could it be?

A I do not see how it could be anything else.

BY MR. KOHN:

Q You cannot explain how you got this special listing even before you filed the application? The Board acted on December 21st and you did not file your application until the 27th or 28th?

A I think the application was filed earlier.

Q Not according to the record.

A Well, I do not know anything about it.

ATTORNEY GENERAL McBRIDE: Well, the letter was sent up.

CHAIRMAN TOMPKINS: The letter was not in the hands of the Board at the time of the special listing.

THE WITNESS: Well, I just don't know the answer to that.

BY MR. KOHN:

Q All right. You would not know the answer to that at all?

A Well—

Q Do you know the answer or don't you?

A Well, let me look at my notes. No, I just do not know the answer to that.

MR. KOHN: All right.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Trescher, do you know whether your second application had been before the Board and returned by Mr. Hean prior to the granting of the special listing?

A No, I do not know that.

Q You do not know that?

A I think your record will probably show that.

MR. KOHN: May I say the second application was not filed until December 27th. We have them here. That is what that will show.

BY REPRESENTATIVE LOPRESTI:

Q Now let us get down to this other question so we

can clarify it very simply. The reason for your going to Attorney General Cohen was to find out whether the decision of the Board had been based upon a technical question of time or whether it had been handed down on the merits. Is that not correct?

A That is correct.

Q And finally, that is the thing that you wanted to ascertain rather than the procedure?

A Well, I would regard that as a procedural matter.

Q I mean procedural to that extent.

A Yes.

Q And that was the only purpose and the only thing that you and Mr. Cohen talked about?

A Yes. That was the sole purpose, and my greatest concern at the moment because it meant the difference of waiting another year.

Q And that was the question which Mr. Hean could not answer without directing you to some Member of the Board?

A That is correct. He sent me to Mr. Cohen as the chief legal advisor for the Executive Department.

BY CHAIRMAN TOMPKINS:

Q Could you not have written a letter to have some of these procedures clarified, Mr. Trecher?

A Well, I probably could have except that I was about to go off to California. I wanted to clear this up before I went because—I wanted, of course, to have this matter come before the Board as soon as possible because I felt so deeply about the innocence of the men.

Q Well, it had been going on for some time, had it not? Why did you wait until the last day?

A Well, simply because I had a lot of things to do.

Q Couldn't Mr. Fawcett have done it for you?

A Well, he probably could have, but I felt so deeply about this thing and I knew all the facts of it, and I simply did not want to entrust it to him.

Q Is it not a matter of fact that you wanted Lavery, the Union representative, to meet the Attorney General?

A No sir.

BY REPRESENTATIVE BELL:

Q Mr. Trescher, is it customary in your practice to come to Harrisburg and have a special visit with the Attorney General to ask a procedural question?

A Well, it depends, of course, on the seriousness of the matter. To me this was a very serious matter.

Q Have you ever had, before or since, a similar situation?

A I have only had one other Pardons Board matter in my life time. I think that is probably one of the very few times I called on the Attorney General.

BY REPRESENTATIVE BELL:

Q The Attorney General, you testified, was a very busy man at this time, in December 1955?

A Well, I do not know. I had no idea what his schedule was.

BY MR. KOHN:

Q Did the Attorney General ask you what you wanted to see him about?

A I told him that Mr. Hean had suggested that I talk with him about an important procedural matter and I told him that I was going to California the next day and that I would like to see him that day, if possible. He said, come on down.

BY REPRESENTATIVE BELL:

Q Had you ever met Mr. Cohen previous to that time?

A I think I had met him at an alumni gathering attended by six or seven hundred people. He did not know me from Adam, and I do not think I would have known him had I seen him on the street.

CHAIRMAN TOMPKINS: We will take a fifteen minute recess.

(Short recess)

AFTER RECESS

CHAIRMAN TOMPKINS: Mr. McBride, you put in the one analysis as an exhibit; however, I don't think the 1953-1955 and the 1955-1956 were marked.

ATTORNEY GENERAL McBRIDE: I think they should be.

CHAIRMAN TOMPKINS: We would like to have the information for the use of the Committee.

I would like to announce at this time our time schedules for the balance of today and tomorrow. We will continue with these hearings until 5:00 o'clock this afternoon and then reconvene at 7:30 this evening. Then we will resume at 9:30 tomorrow morning and run through until 3:30 tomorrow afternoon, with lunch, of course, because I understand the Press have a conference with the Governor. We try to arrange everything we can for the convenience of everybody, but sometimes it can't be done. Will that be satisfactory to everybody?

SENATOR YOSKO: Repeat that, please.

CHAIRMAN TOMPKINS: We will adjourn at 5:00 o'clock this afternoon, and we will reconvene at 7:30 tonight, and tomorrow we will run from 9:30 until 3:30 in the afternoon.

We have other witnesses which have been summoned for tomorrow and we want to try to clear up our schedule.

ATORNEY GENERAL McBRIDE: May I ask that the recommendations of the judges and district attorneys we have referred to for the periods January, 1953 until December, 1954 be marked as Board of Pardons Exhibit No. 24. And I ask that the recommendations of the judges and district attorneys for the period February 1, 1955 to December 31, 1956 be marked as Board of Pardons Exhibit No. 25. I also ask that the rehearing schelude attached to the certificate of Frank Hean, from which Governor Furman has testified, be marked as Board of Pardons Exhibit No. 26.

Recommendations of Judges and District Attorneys for January 1953 to December 1954—produced, marked for identification and received in evidence as Board of Pardons Exhibit No. 24. AJP 3/27/57

Recommendations of Judges and District Attorneys for February 1, 1955 to December 31, 1956—produced, marked for identification and received in evidence as Board of Pardons Exhibit No. 25. AJP 3/27/57

Rehearing Schedule and Certificate taken thereof by Mr. Hean—produced, marked for identification and

received in evidence as Board of Pardons Exhibit No. 26. AJP 3/27/57

LIEUTENANT GOVERNOR ROY E. FURMAN, recalled on DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Now, Governor, there has been marked Board of Pardons Exhibit No. 7, which I am now handing to you. I ask you did you make an analysis upon that list of cases for the County of Delaware commencing in February 1955 and ending February 1956?

A Yes, I did. I made my own analysis from that.

Q Will you tell us in your analysis what the situation was with respect to the recommendations for clemency, the objections to clemency, and whether the Board on the basis of that record was more or less generous than the recommendations of the judges and district attorneys of Delaware County?

A Well, from all the cases listed in this report, or exhibit, there are 20 cases that both the judge and district attorney favored. We granted ten and we refused ten.

Then there are 15 cases that the judge favored but the district attorney opposed. We granted three and rejected 12

Then there are eight cases that the judge opposed but the district attorney favored. We granted two and refused six.

Then there are 22 cases that the judge and district attorney both opposed; we granted six. The five that were just discussed by the witness preceding me were five of those and one besides that, and we rejected 16.

Q So that was the only one, outside of those five which you have spoken about, which were granted over opposition of both the judge and district attorney?

A That is correct.

REPRESENTATIVE BELL: Mr. McBride, could we have the name of that sole case for the purpose of the record?

ATTORNEY GENERAL McBRIDE: I think I remember. The first of those was the Caserta case.

THE WITNESS: That is the Caserta case.

ATTORNEY GENERAL McBRIDE: And which case has been mentioned here.

BY MR. KOHN:

Q What were those dates?

A Beginning February 1955, and up to and including February 1956. That is at the time we had the chart made.

ATTORNEY GENERAL McBRIDE: We have brought that list up to date in another paper which I will have marked as an exhibit, but it has not yet been analyzed, and we may be able to analyze it and submit that analysis to the Board in an hour or two or at the evening session.

I ask that the paper marked "Delaware-March 1956" ending with December, 1956, be marked as Pardons Board Exhibit No. 27. I ask leave temporarily to withdraw it for the purpose of making the analysis.

CHAIRMAN TOMPKINS: Very well.

Three-page Photostat entitled "Delaware-March, 1956"—produced, marked for identification and received in evidence as Board of Pardons Exhibit No. 27. AJP 3/27/57

ATTORNEY GENERAL McBRIDE: You may inquire of the witness.

CROSS EXAMINATION

BY MR. KOHN:

Q I call your attention, Governor, to the rule set forth in your Executive Committee Minutes, paragraph 6 (b), with regard to rehearings. Do you recall that you had a comment therein that this rule should be more strictly enforced and that rehearings should not be granted except on new grounds?

A I said that we had so many requests for rehearings that we decided it would be better for the Board to adhere more strictly to the rules and in asking for rehearings that new or additional evidence be submitted.

Q At that time there were no rules laid down as to whether these new requests or new reasons should be either put forth in petition form or in letter form, is that right?

A You mean prior to the time we passed the rule?

Q Yes.

A I think that those requests probably just came in and asked for a rehearing; a formal request.

Q Well, what I mean is, even after you decided by executive action that the rules should be more strictly enforced, you did not lay down any particular rule as to the form which that application for rehearing could take? It could be by letter or it could be by petition?

A By petition, that's right.

Q Don't you think as a matter of procedure it might be best if the thing were passed upon and that it should be by petition setting forth the new matters rather than by a letter sent to the Board setting forth a lot of irrelevant things?

A Well, we try to determine the best we can. Sometimes when they have listed additional reasons, we have rejected them, I am sure, because we did not think they were valid reasons. But if there is something, I think it is only fair and proper that we should grant a rehearing if something new happens.

Q I am not questioning that. So that you understand, I refer you to your action of October 25, 1955, in which the following statement is made.

A I have it here.

Q It is contained in the minutes: "The Board also unanimously voted to closely follow Rule 6, Section (b), so that no petitions for rehearing will be considered for allowances unless there be new facts, both substantial and material, not previously presented."

And in line with the amendment to Rule 5, Section (b), the December list was closed and the new rule put into effect—well, that is not relevant. That is in regard to bimonthly listings.

Now do you think that you have followed that rule very strictly?

A Rather strictly, I think.

Q May I call to your attention the Mollica case. What exceptions did you make?

A I don't know of any exceptions that we made.

Q Now, you heard me discuss the facts in the Mollica case, which was a murder case?

A No; I think that was last Wednesday morning, and I didn't get here until the afternoon.

Q Well, let me briefly recall to you the facts in the case; not the facts as to the murder, but the facts in regard to procedure:

Mollica had been charged, convicted and sentenced to life imprisonment in Philadelphia. He had filed an application for commutation. That application had been denied. Subsequently, his attorney, G. Fred DeBona, asked for an early listing. Mr. Hean told him that the matter would not be listed; that he would have to file an application; and it could not be listed for a year, because that was the rule. He then filed an application. Mr. Hean acknowledged the receipt of $20.00 and sent $5.00 back. He said this applicant had a hearing on November 5, 1954, and therefore under the rules of the Board, another application could not be filed until November, 1955, when one year had expired.

Now that was the rule on the filing of applications. Mr. Debona did not know much about procedure on re-hearings, so he made no application for a re-hearing, but Congressman William A. Barrett, from the 46th District of Philadelphia, then wrote the Board of Pardons on June 10, 1955, attention of Mr. Hean. He said: "Gentlemen: In answer to your letter with respect to the above captioned case, it could not be listed until November, 1955, by reason of the fact that the prior application was heard before the Board in November, 1954. May I respectfully request for special consideration of this application, that the matter be listed for the September, 1955 meeting? As your records will indicate, the other two persons involved in the crime which resulted in the imprisonment of the above, have been released by the Board. Because of this fact, we feel a special consideration may be accorded to the above applicant."

Now, what I am asking you specifically, Governor, is whether or not you feel that an attorney who has been already denied a special listing representing the applicant —do you think it should be the Board's procedure to listen to some Congressman who doesn't represent the applicant, and take as a new reason for special consideration the fact that the accomplices might have been released?

A Well, I don't know if that would be any new reason, That was a reason. I think it's the prerogative of the Board to hear the cases. Now, what does the first paragraph say? Doesn't it say that he had some communication? I am not familiar with that.

Q Yes, I am glad you brought that up because that communication I cannot find in the file.

(The letter was handed to the witness.)

SENATOR YOSKO: What is the question?

MR. KOHN: I am asking him whether he thinks it was a proper procedure wherein the attorney is advised by the Secretary of the Board of Pardons that the case cannot be heard for a year because it has been heard the previous year, 1954, and cannot be heard until a subsequent time, and whether or not, when a Congressman writes in, who does not represent the applicant, it merely says because the accomplices have been released, a re-hearing should be granted?

CHAIRMAN TOMPKINS: He asked whether or not that was sufficient reason to grant the re-hearing.

MR. KOHN: A new and substantial reason for granting a re-hearing?

(The witness read the correspondence file.)

THE WITNESS: Well, I see by this letter that apparently Congressman Barrett must have represented this man in some way.

BY MR. KOHN:

Q I am asking you about the letter of June 10. That was the one that requested the special listing after a listing for his attorney had been denied; is that right?

A I would say that this was denied, because it just says, "please place the within matter on the June list."

Q That was May 12, 1955?

A Yes.

Q Then he files an application and says it has to be a new application, and it must come up within a year; it cannot come up before a year?

A It is listed for November.

Q Now then, Congressman Barrett enters the picture and says he has new reasons for special listing which would be the fact that his accomplices are out.

A No, this other letter does not say that. The new reason is the fact—

Q Wait a minute. You are getting to July 7th. I am talking about June 10, 1955. That's all the correspondence up to this time that we are considering.

A On June 10, the letter from Congressman Barrett—well, on the 16th of June the Secretary of the Board of Pardons, Mr. Hean, replied to that letter and said, "It would be feasible to bring to the attention of the Board of Pardons your request for special listing of this application for the September, 1955 sessions. Before we take this step, may we suggest that any special reason in addition to the release of the accomplices be forwarded to us and be included in the request for special hearing."

Q Now, up until this time, we have an application on file from his attorney, which has been denied any special consideration. Now, you have an application from Congressman Barrett and a reply from Mr. Hean, stating that if he has any special reasons, he will have to give them: right?

A That's right.

Q Now, you don't consider, so far, any special reasons having been given to grant such an application; is that correct?

A That's correct.

Q Now, is it very often that this Board has taken letters from outsiders who are in no way connected with a case officially on record and given special consideration to applications for hearings?

A Well, it appears to me that the Congressman must have had some contact with the attorney and had written —and I don't know whether they are partners, or what they are, but he was advised about any new evidence, so I see nothing particularly wrong in the case.

Q You mean you see nothing wrong when the attorney is denied by the Board, and then the Congressman's request is granted?

A The attorney was denied on the fact that he submitted no additional evidence.

Q And the Congressman wasn't going to appear before the Board, was he?

A I don't know about that; I don't believe he did; I don't recall.

Q Do you recall any other cases in which DeBona and Mollica teamed up?

A Not Mollica.

Q No; DeBona and William A. Barrett, the Congressman, teamed up?

A No sir, I do not.

Q Do you recall the David Long case?

A No sir, I don't.

Q You say that they might be tied up, Barrett and DeBona?

A They might be, I don't know whether they work together legally or not. Barrett is a lawyer, isn't he?

Q Yes.

A I think he is; I am not sure.

Q And they happened to have the same address in Philadelphia, so that DeBona was the attorney, and Barrett was the Congressman writing letters on the same case?

A It could be, because many times that happens.

Q It does?

A Just as the witness who preceded me—

Q Don't you think it would be rather proper for the attorney, if they were both working together, to take all the legal procedure necessary to be followed to get action before the Board; don't you think there is something unusual in the Congressman's using his stationery when there is a man on record—

SENATOR YOSKO: Wait a minute, Mr. Kohn. When you brought that up previously, we said the Board of Pardons has no control over what stationery anybody uses.

MR. KOHN: I am asking if they do or not.

SENATOR YOSKO: Why ask him why he used his stationery?

MR. KOHN: I am asking him if he thinks it is proper.

THE WITNESS: Let me answer. I see nothing improper there, and it would have been refused if there hadn't been some additional evidence.

BY MR. KOHN:

Q Then the additional evidence was that Congressman Barrett wrote another letter to the Board of Pardons in 1955, and was that brought to your attention?

A Was it in the file?

Q Yes sir.

A If it was in the file, I saw it.

Q And do you think there is any reason in that, Governor, to justify the granting of special consideration and a special hearing?

A I would say that, "in addition to the above mentioned facts, I am most anxious to obtain the release of Mollica at the earliest possible time, because of the health of his mother."

Q Do you release murderers because of the health of their mothers?

A This was only to be heard. The regular course of events would have been two months.

Q I mean you knew he was in for life, and when you considered the case, you knew that, did you not?

A That's absolutely right.

Q And if he had not been in a sufficient time in your estimation, the fact that his mother might have been aged would have no special consideration, would it?

A No, that's right. Rehabilitation is the consideration.

Q Is there any other special consideration or any other factor in there which would give him the special consideration that Congressman Barrett requests?

A I would say that the reason it was granted was that particular statement that he made about the heart attack, where he refers to Mollica's mother.

Q Do you believe that is why his sentence was commuted?

A Yes.

Q Now, what were the grounds for the commutation, according to your records, as you say you made notes in those records?

A Well, I haven't that case here. I would have to go to my office and get it.

Q You will bring that in for tonight's session?

A Yes. That was heard in September, 1955.

Q Now, do you know Maurice Coughlan, the attorney from Erie.

A I've met him, but I don't know him well.

Q Under what circumstances did you meet him?

A Well, I can't answer that. Whether I met him when I was in Erie, I can't say; it might possibly have been in Harrisburg where I met him casually.

Q Governor, during the time you were on the Board, do you know of any re-hearings that have been granted without some reason appearing in the records, or some petition or letter being in the record for a re-hearing?

A No sir.

Q Now, I call your attention to the Ben Kaufman case. Are you familiar with that case? I think you were here when we discussed that case, or the evidence of the case, am I correct?

A Yes, I think so.

Q Do you recall we brought out that there was nothing on the record asking for a re-hearing or any reason for listing for a further re-hearing at a later date? It was refused on November 5, 1955, and the records show nothing. Can you give us any enlightenment on that?

(Discussion off the record.)

BY MR. KOHN:

Q I don't think you can find anything there this case came about after being listed for May 15, 1956 when the hearing was refused. There was nothing in that file.

Do you agree that the record shows it was heard in 1955 and refused, and then a re-hearing was requested for May 15, 1956, and refused? Is that right?

A Yes, that's correct.

Q Now, I show you a communication from Mr. Hean to the Board members, dated August 30, 1956, wherein a special listing is talked about.

I show you a letter of yours dated August 10, 1956, to Frank Hean, as follows:

"Will you check and see if this case can be listed for September?"

Is that correct?

A Yes.

Q It is?

A That's correct.

Q Now did you do that, Governor, on the basis of these letters that you received from the Kane Democratic Club, Rabbi Deckter, and these other people? Did you consider those requests for a re-hearing?

A Let me look at that letter. (Letter handed to the witness.)

Q Is that what prompted you to make those—

A Very likely, it is.

Q All right.

Now then, I refer you back to a communication of August 30, 1956 from Mr. Hean to the Board members, suggesting a special listing for the September, 1956 sessions on this case, in which he says: "Another request has been presented to the Board on behalf of this applicant by Mr. Coughlan, Mr. Jones and Mr. Phelps. I understand Mr. Phelps was in the city this week and spoke to the various Board members on this matter."

Do you know Mr. Phelps?

A Yes sir.

Q Do you recall his speaking to you about this case?

A No, I don't ever recall his speaking to me about it.

Q You knew Mr. Jones?

A Yes, I knew Mr. Jones.

Q And did he speak to you about this case at any time?

A I think he called me on the phone at one time and said he was interested and would like to get a hearing for the fellow in whom he was interested.

Q And you know Coughlan, you say?

A Just casually.

Q Do you know the position that Mr. Phelps holds?

A Yes sir.

Q What is that position?

A Democratic County Chairman, Erie County.

Q Now then, Mr. Hean states that a special meeting is requested. The suggestion has been made. He does not say by whom, but he states, "since no special meeting of the Board will be held prior to the September sessions, this request will be circulated among the members of the Board."

Do you know who made the request?

A No, I do not.

Q That is a letter you wrote?

A Unless it was the note that I wrote.

Q August 10th, and this was August 30th.

Now, may I read this again: "The suggestion has been made that since no special meeting of the Board will be held prior to the September sessions"—this is dated August 30, 1956, this letter—"this request will be circulated among the members of the Board. This is an exception to our practice of considering hearings only at executive sessions, but under the circumstances, this exception to our practice should be granted."

Do you recall what the reason for this exception to your general practice was in this particular case?

A Well, I will tell you:

We used to—generally, a request for a re-hearing was circulated. It would come to my office; it would go to the other offices, and at one of our meetings we discussed this, and we decided we would rather sit down together. It isn't a hard and fast rule, but we do adhere to that generally. But sometimes when we don't get together, there are requests circulated to each member's office.

Q There was no special meeting for August, and this was a special meeting to consider the Kaufman case?

A I don't think it was any special meeting. I think it was circulated.

Q "This is an exception to our practice," he says. "No meetings will be held prior to the September sessions." That's what Mr. Hean said.

A Then he must have circulated it to each office.

Q Yes, that's correct. He said, "Let's consider this case as an exception to our general practice."

A No, our general practice was, when we had an executive meeting, we told him one time to hold all of these; and when we were all there, we would discuss them all at once. But that is not a hard and fast rule.

Q But why was there an exception in this case, for considering this immediately?

A I haven't any knowledge on that except that we were not holding a meeting and he probably did it because I said, "will you check and see if this case can be listed for September?"

Q Well, do you know if this call from Mr. Phelps had any bearing on it?

A I had no call from Mr. Phelps.

Q Now, the occasions on which Mr. Phelps contacted the different Board members—

A Well, I have no knowledge of that.

Q Did you consider any other re-hearing applications at that time?

A I couldn't answer that.

Q Well, there must have been, if you did not have any meetings in August, there must have been quite a few pending.

A There may have been others that were circulated. I cannot answer that question.

Q Well, now, will you explain to me if you can, Governor, in your minutes, if you have them, of September 25, 1956, page 4, at the bottom of the page, where this notation appears: "The Board considered the request of Ben Kaufman, No. 80, November of 1955, for re-hearing and special listing at this session." Now that's September 25, 1956, because those are the minutes of that meeting—and "on August 30, 1956, unanimously granted same."

How could they consider it on September 26th session and then grant it as of August 30, 1956?

REPRESENTATIVE LOPRESTI: Is that putting something into the minutes that had previously taken place just as the record of an action?

MR. KOHN: I really don't know, Mr. Lopresti.

REPRESENTATIVE LOPRESTI: When did the Board meet to consider it?

MR. KOHN: September 26, 1956, and they said "we considered it at this session."

REPRESENTATIVE LOPRESTI: When was the session?

MR. KOHN: September 25.

REPRESENTATIVE LOPRESTI: So in order to hear it that session, they would have had to give some advance notice, and they were merely putting into the minutes what they had previously done in August.

MR. KOHN: I wanted to know if the minutes of the August 30 date are those that were specially considered.

REPRESENTATIVE LOPRESTI: It doesn't say that.

THE WITNESS: No. That it No. 122-A, Ben Kaufman.

BY MR. KOHN:

Q Where are your executive minutes of that—"considered application for re-hearing?" There is nothing in the record showing that.

A It is stated here, but as you just stated, it was cir-

culated; they did not consider it, there was no meeting, but the application was circulated.

Q Then it wasn't at this meeting?

A Yes, it was listed on the list, No. 122-A, at September 25.

ATTORNEY GENERAL McBRIDE: The granting of the hearing would not be September 25th; it would be the re-hearing itself.

THE WITNESS: We had the re-hearing on September 25.

MR. KOHN: Well, I can't figure it out. All right.

THE WITNESS: It is No. 122-A.

BY MR. KOHN:

Q I think you said something on direct examination to the effect that you felt that the facts submitted to you by the Parole Board investigators were very satisfactory, and that they did an excellent job. Are you familiar with the case of Thaddeus John Skalski?

A No sir.

Q The number is A-1160, and it was out of Philadelphia.

REPRESENTATIVE BELL: What session was that?

MR. KOHN: I am going to read the facts into the record.

CHAIRMAN TOMPKINS: What session of the Board of Pardons?

BY REPRESENTATIVE BELL:

Q Governor, do you have that there?

BY CHAIRMAN TOMKINS:

Q When was it filed, the application?

A September, 1955.

CHAIRMAN TOMPKINS: All right.

BY MR. KOHN:

Q There were two applications filed, were there not, Governor Furman; one being A-1160, on November, 1951, in which the Board commuted his minimum sentence subsequently, charged with armed robbery?

A And subsequently, on September, 1955, there was an application for commutation of his maximum, which was ten years, is that correct?

A That's right.

Q Now, I am particularly interested in the commutation of the maximum, in view of the Pennsylvania Parole Board record on this man. How much information could you find in the file there of the Parole Board which would give you a complete statement for the purposes of the Pardons Board to act upon?

A Well, I see a letter right here from the Secretary of the Pennsylvania Board of Parole, dated October 18, 1955, written to Mr. Hean: "This man is applying for commutation of maximum sentence, and his application will appear before the October session of the Pardons Board. You will find attached a report from Dr. G. I. Giardini, together with our field investigation report, for the Board's information, on the basis of subject's status as a first offender, his adequate adjustment under supervision, and the fact that he has been on parole for three years, the Board would not oppose his appeal for commutation of maximum sentence."

Q Would you read further, where it says, "While the case was up for a hearing, the defendant was arrested in Michigan for carrying concealed deadly weapons?"

A Where is that?

Q I think you will find that statement in there. Now the case was postponed at the request of his attorney, Mr. Maris. On April 27, 1956. Mr. Hean wrote Mr. Maris that the re-hearing would be granted for the June session.

I call to your attention a letter from the Board of Parole to the Board of Pardons, dated April 16, 1956, in which Mr. Des Rochers writes to Mr. Hean that "this man was assessed a fine of $150.00 and $18.00 costs in a Michigan court, on a charge of carrying concealed deadly weapons. The Board of Parole, at its meeting of December, 1955, voted to reinstate him under supervision. This has been done, and the latest reports we have on him indicate that he is adjusting satisfactorily. Therefore, you are advised that the Board of Parole would have no objection to commutation of maximum sentence being granted at this time to relieve the parolee from further supervision."

I think you will find that's correct. Is that right?

A Yes.

Q This commutation of the maximum then was granted by the Board from ten years to six years and six months and ten days, about the 13th day of November, 1956, is that correct?

A Yes.

SENATOR YOSKO: Mr. Kohn, what are you trying to prove?

MR. KOHN: I think we can state it very simply, if you want me to take the stand. I am trying to prove that cooperation between the Board of Parole and the Board of Pardons has been terrible; that the Board of Pardons did not have all the facts to rely on in this case that they should have gotten.

SENATOR YOSKO: I don't know how many cases you have reviewed, but there are thousands of cases, I suppose, that are involved, and you pick out one here to refute a statement that the Lieutenant Governor made, that they had sufficient evidence before them.

MR. KOHN: I am not—

SENATOR YOSKO: How many more cases do you have in which there wasn't enough information from the Parole Board for the Pardons Board to act upon? If you can't submit a reasonable number of cases to refute the Governor's statement that they do have a sufficient amount of information before them, then I will say to you that you are scraping the bottom of the barrel to try to embarrass the Lieutenant Governor.

MR. KOHN: I don't know what your purpose is in making that comment, but I think the Lieutenant Governor and the Attorney General and everybody else would be interested in finding out just how much information they are getting.

SENATOR YOSKO: But it is a matter of opinion.

MR. KOHN: It is a matter of record.

SENATOR YOSKO: And with respect to the Lieutenant Governor and the Board, whether or not they have sufficient information before them from the Parole Board—

MR. KOHN: Aren't you interested in finding out whether they have sufficient information?

SENATOR YOSKO: Certainly, I am.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, we did have it appear on the face of it that this man involved was a truck driver carrying money over the road.

MR. KOHN: No, it does not appear in the record that he was carrying any money.

ATTORNEY GENERAL McBRIDE: Well, that's the fact of the case.

MR. KOHN: Not in the record.

ATTORNEY GENERAL McBRIDE: Yes, and I think you will find it in the record.

MR. KOHN: I am trying to—

CHAIRMAN TOMPKINS: Just a moment.

ATTORNEY GENERAL McBRIDE: May I make a statement, Mr. Chairman?

CHAIRMAN TOMPKINS: In connection with the issues raised here, I don't care whether there is one or a hundred cases of this kind brought before us, but with these other cases that we have had before us, we are trying to find out the reasons for the actions in certain cases, and for that reason we are entitled to go through this record and find out now if the Attorney General has information to bear upon the statement he is now going to make. I think we ought to get that from the record and get it into this record.

ATTORNEY GENERAL McBRIDE: I would be delighted to put it into the record.

THE WITNESS: Let me answer.

(Discussion off the record.)

THE WITNESS: We have two letters, one on October 18, 1955, in which the Parole Board said that they would not oppose his appeal. Then, I see from this other letter that this man was assessed a fine of $150.00 and $18.00 costs in a Michigan court, on a charge of carrying concealed deadly weapons.

Now this is a letter dated April 16, 1956: "The Board of Parole, at its meeting of 12/12/55, voted to reinstate him under supervision. This has been done, and the latest reports we have for him indicate that he is adjusting satisfactorily. Therefore, you are advised that the Board of Parole would have no objection to commutation of maximum sentence being granted at this time to relieve the parolee from further supervision."

BY MR. KOHN:

Q Is that the report that you got from the Board of Parole?

A Well, there is a more confidential report here.

Q And when this case came up, can you find in the record what Mr. Hean said to the Board: "I feel that the applicant was justified in carrying a weapon, and the investigation of the Board of Parole did not remand him to the prison or penitentiary for a violation. Attached herewith you will find the report of the Board of Parole, clearing him of this offense."

A You mean that is a letter?

Q That was the application for the re-hearing. Harner and Blatt favored and Cohen and Furman opposed.

Now, as a matter of procedure, do you have the Secretary of the Board of Pardons make findings of fact for you, that he feels that the applicant was justified in carrying a deadly weapon?

A I think he has the right to give us any information that he has.

Q Where would he get those facts?

A You will have to ask him.

Q He wouldn't have any independent facts except what he got from the Board of Parole?

A Probably from the Board of Parole.

Q Now if you look at your record there, you will find, the Parole Board record, that this applicant had not been personally interviewed by a parole agent for at least four months prior to the time you considered this application for commutation of the maximum?

A Will you please state that again?

Q Yes. I asked you whether or not you find any indication in your Parole Board report that the applicant had not been interviewed personally by any parole agent for at least four months prior to the time you considered this application for commutation of the maximum?

A Well, no, I would have to go through it, but I know of nothing. They interview them at least monthly, I am sure.

Q I will say this, there is nothing in the record that you have before you—and I don't want to get any wrong impressions across that there is anything at all in this case that the Board of Pardons is charged with—I am just showing you that there isn't enough evidence to give you, for some reason, grounds on which to know the actual facts.

A I want to point out another thing to you.

Q Well—

BY REPRESENTATIVE LOPRESTI:

Q You were going to say something?

THE WITNESS: I would like to say here, in relation to this arrest in Michigan—and it is conclusive evidence to me that the Parole Board immediately recommended his release. It says: "At the time of the arrest," that is in Michigan, "the applicant was on parole and had permission to leave the State, as he was employed as a driver for an automobile carrier company. Upon due explanation of the reason for carrying a weapon he was released."

BY MR. COHEN:

Q Governor Furman, I say to you, if you will look at the report of the cases of the Parole Board, you will find it differs entirely from the record as given to the Board.

A What date is that?

Q You have a copy of the report of the State of Michigan, Bureau of Pardons and Paroles, dated November 29, 1955, submitted to you by the Parole Board?

A I see nothing additional. He was under the Pennsylvania Board of Parole.

Q That's right, but you see when he violated the law in Michigan that they made a record of it.

A Was that a part of that?

Q That is a part of the record of the Parole Board, and it is entirely different from what the Parole Board gave you.

Do you think information of that type, as to the actual facts of the case as submitted by the Parole Board in the State of Michigan would be helpful to you in determining the facts? Now those are ours, and you can look at them if you care to do so. You never saw that, did you?

A I have no recollection of seeing that one, no.

Q Would you be surprised if the Parole Board of the State of Michigan made this investigation and you didn't know anything about it when you decided the case, as follows: "State Police Troopers, in talking with other inmates of the Flat Rock City Jail, after prisoner had been transported to the Monroe County Jail, indicated that prisoner talked about ways of pulling robberies, and said he was a transport driver of new cars, and stated that a good way to pull a robbery was to take one of the cars back on the haulaway and continue his journey; that while police were looking for the getaway car, he would be traveling through on his haulaway. Whether this type of robbery has ever been pulled, or if it was just talked about by the prisoner, is not known. At least it indicates his thinking."

That was when he was picked up in Michigan.

A Let me say this to you, Mr. Kohn: I don't think there is anybody perfect. We are not perfect.

Q I am not criticizing the Board in any case.

A And I think the courts make mistakes.

Q I am not criticizing; I am just attempting to show the facts, without any criticism.

A That can happen.

Q There is quite a bit of information that is relevant to a case that is not submitted to you by the Parole Board; isn't that right?

A I want to say this to you; that I think the Parole Board does an excellent job. Their reports are very fair, very comprehensive, and they give us the facts, and we do consider them an awful lot. If there is an error made here, which can be true, I certainly would not condemn the Parole Board for just one error, because they have thousansd of cases.

Q But where they have a complete file like this, and where the case has been continued for a specific reason, and while the application for a commutation was before you, and where he was picked up on a charge of carrying concealed deadly weapons, don't you think it should be relevant that the Parole Board turn that information over, the full information?

A I think they did. I don't know the facts here, but I know they generally give us very good information from time to time which is valuable to us in our actions.

Q Do you know that Mr. Maris in this case, in the testimony, said to you, to indicate the nature of this young man, that when he was fourteen, his sense of loyalty to his Country caused him to enlist in the Marine Corps, and he was discharged when his age was found out. Then when he reached the proper age, he enlisted in the Army.

That was taken into consideration, was it not?

A Probably.

Q Well now, Mr. Maris did not go further and tell you that he received a dishonorable discharge, and that would kind of counteract that first fact, wouldn't it?

A It should be a matter of record.

Q What I am trying to say, Governor, is that when you listen to counsel and you make notes on the records as to what you think counsel said, plus what you think sometimes you don't know all of the facts?

A We could make a mistake, but I would say generally—

Q I did not mean to imply that—all of us can do that.

CHAIRMAN TOMPKINS: All right. It's after five o'clock. I wonder if this might not be a good place to break for our dinner, and then reconvene at seven-thirty.

Before we recess, however, maybe I can give this to Mr. Hean, so that I may have it before us and so the Governor will have it when I want to ask him some questions in connection with some matters on capital cases.

(Discussion off the record.)

(At 5:10 P. M. the meeting adjourned until 7:30 P. M. of the same date.)

I hereby certify that the procedings and evidence are contained fully and accurately in the notes taken by me during the hearing before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same.

(Sgd) A. J. PLESCE
A. J. PLESCE

Reported by:

Anthony J. Plesce
Box 582
Harrisburg, Penna.

EVENING SESSION

MARCH 27, 1957

COMMITTEE MEMBERS PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR JOSEPH J. YOSKO.

ATTORNEY GENERAL McBRIDE: Mr. Lieutenant-Governor.

ROY E. FURMAN, Recalled on
CROSS-EXAMINATION

BY MR. KOHN:

Q Governor, you testified that by Board action on October 25, 1955, the Board reconsidered the application of Martin for commutation, is that correct? That is in the Erie cases, October 1955.

A Yes sir, on October 25, 1955 the Board unanimously voted to reconsider the application of John J. Martin, No. 104, June 1955.

Q And what other case did they reconsider at that time? I mean on the Erie County cases.

A I do not believe they reconsidered any other cases.

Q Well what brought about that reconsideration of that particular case at that particular time?

A I think there was a letter involved.

Q You mean the letter of Judge Evans of October 10 that you read?

A I think so, yes.

Q Is that what you mean?

A Yes.

Q I mean, let me know what you mean.

A Yes.

Q Now I have the file here if you would like to see it.

A I think that is what it was, as I recall.

Q Now you did not reconsider Adiutori or Flatley or Czulewicz at that time, did you?

A We considered them in October. We had heard those, we heard those cases in September and at a special Executive Session on November 14, 1955. Well that was when it was changed back from the 15th of December.

Q What I am getting at is in October, after you granted in September Flatley, Adiutori and Czulewicz commutations, then you took up the Martin case and gave that further consideration and gave him his first commutation?

A That is right.

Q And then nothing occurred between then and November 14, at which time you took up Adiutori, Czulewicz and Flatley?

A No meetings, no.

Q There was no reconsideration between those dates of those three persons or anybody else?

A In connection with the Erie cases, no.

Q What is there in the record that caused the Board to reconsider those three cases at that time after they had already made up their mind once?

A Where is the file? Do you have the file?

Q Yes, surely.

A Where is the file on the Martin case?

(Witness handed file in question.)

Well I did not attend the executive meeting on November 14. I am sure that this letter here relative to Martin, the judge saying that he could see no reason for refusal to allow two weeks further reduction in order that he might be home for Christmas, I think that applied to the other three cases.

Q Do you think that the judge meant, when he wrote you a letter in October, that that meant that you should change the commutations in the September cases which you had already commuted to one year, do you think that meant the other three cases?

A No I think that was probably the thinking of the Members.

Q You don't know, do you?

A I was not there at that meeting as the record indicates, but I agreed to it when I was notified. I felt that it was proper.

Q And that particular letter was in the file when you considered the Martin case originally and refused it?

A Which was that?

Q Judge Evans' letter.

ATTORNEY GENERAL McBRIDE: That couldn't be September.

BY MR. KOHN:

Q That letter was in the file when you reconsidered the Martin case on October 25 and refused it.

A No.

Q Was it granted then?

A On October 25 was when it was—

Q I am sorry. I got mixed up.

Now will you explain when you were present on October 25 at the executive session which considered the Martin case and you say that that letter was the basis for further consideration for Flatley, Adiutori and Czulewicz, why you did not make the change then on all three of them?

A Well I cannot answer that. On October 25 was when we considered this Martin one. I presume that at the executive session then on November 14 they felt that it was right to treat them all equally.

Q Well what happened in the interim? I mean do you think this call that the Governor allegedly made to Erie might have changed the Board's decision by November 14?

A Well I would say no, positively no that it had no affect.

Q Was there any discussion in your committee on November 14 as to what affect the previous or the prior release from what you had originally agreed on would have on the citizens of Erie?

A Well I was not there November 14 but at every meeting I attended, no, there was no discussion of that.

Q Well you cannot explain any reason when you considered the Martin case why you did not change Flatley's sentence then, commute it further?

A No.

Q Well do you know of any reason at all?

A No.

Q Well do you know of any reason that you would have brought it up specifically on November 14?

A No, I do not know of any reason except that these cases—wait a minute. These cases were sort of a pattern and in giving those nine months, we took into consideration the crime, how long they were sentenced for and tried to treat them all equally. Martin was a policeman, Flatley was also an officer of Erie and I feel that after we had taken this action here, it was felt that they should treat them all alike.

Q Do you think that you are treating a man equally when one receives a sentence of one year and the other receives a sentence of one year and one-half to commute the man who receives a year and one-half first and let the fellow who received the year—

A Well I do not know on what basis the judges might sentence them. I think maybe if I was there or you, we might have given them a little different sentences.

Q You say you wanted to treat them all alike. Now I am asking why you considered treating Martin like Flatley when you actually left Martin out in six months less—I mean you left Flatley out six months sooner and you let Martin ride and refused him until nineteen days before his final—

A I read to you today the recommendations of the district attorney in those cases. Now I think the judges who were here the other day felt, and also the district attorney, that the matter of two or three weeks prior to Christmas would not affect anybody in any way; that these people had been sufficiently punished. I think you heard one of them make the statement the other day that the mayor of Erie, the fact that he had fallen from a high position, public office, was quite a punishment for him and at least the time in there was not doing anybody any good.

Q You understand me, I am not trying to say you did right or wrong and compare your actions as to what you did. You say you treated them all alike and I am trying to find out why you did not treat them all alike at the same session, if you were trying to treat them all alike.

A Well I think we did try to treat them all alike. Martin was a police officer; the others were not police

officers and that was one of the reasons that his was not acted upon when the others with that were heard in June.

Q When did you say you had commuted Flatley's sentence, October 10—October 10, page four.

A Yes, that was the executive session of October 10 when the Board met at which I was present. All the Board Members were present and it was Adiutori, Czulewicz and Flately were all—no, Adiutori and Flatley as of one year, Czulewicz as of eleven months.

Q Now then the next meeting was October 25 when you then finally considered Martin, is that correct?

A That is correct.

Q And then who initiated and why the reduction of the Flatley and Adiutori sentences further?

A I cannot answer that.

Q You were not present?

A I was not present.

Q Well did you know or was anything discussed with you?

A Certainly, it says afterward, "Change is made on charter and Mr. Furman so advised." I agreed with the action; I thought it was proper.

Q Nobody told you why it was proper or who did it or what?

A No, but I think it was proper at the time of the year.

Q Do you know of any other cases where the same thing had been done by this Pardons Board or any other Pardons Board where they had agreed on a commutation to a certain period of time and then within a month less end that commutation?

A Offhand. I can't give you any but in my opinion there are some.

Q Do you recall any in your experience?

A I can't remember any at the moment.

Q You do not know who or why or what prompted it?

A No.

Q Who kept the records of this executive session?

A Mr. Hean.

Q I refer you to Mr. Hean's testimony before this Board, dated March 6, 1957, Volume IV, page 455; question to Mr. Hean by myself:

"Now you still haven't answered my question. What I would like to know specifically is when in the action of the Board they agreed to reduce it from one and a half to one year? What was the date of that action?

"A I cannot give it to you. I have no record of it.

"Q Well does anybody keep any record of it?

"A The Members of the Board are here and some of them keep records; yes, sir."

Was Hean supposed to keep a record of the minutes of this particular meeting?

A I heard Mr. Hean say that. I think he was confused on the question because it was in the minutes here that I am reading from, and which you have a copy of, and I felt at the time I would have liked to have gotten up and straightened you out on it.

Q But you do not know why he said it at that time?

A No, I think he was confused with that question.

Q Might that have had some bearing on the fact that I had a great deal of trouble getting this for over a week or two weeks from Mr. Hean?

A I did not know that you had any trouble.

Q Do you know whether these records had been prepared after this hearing or before the hearing?

A These records were—this complete record here, while it isn't up-to-date, but what there is here I had in my file.

Q Did you have this record at the time I asked those questions?

A Oh yes, certainly.

Q Isn't it a fact that this record was back as far as three months?

A Mine isn't up-to-date yet.

Q And you recall that I asked Mr. Hean some other questions in regard to what went into this record and he said he destroyed the original notes which he took.

A Penciled notes is the way I understood it, what he did.

Q I call your attention to hearing of March 4, 1957, Volume III, in which I asked about these particular records as I heard they were kept. On page 427, Questioning Mr. Hean:

"BY MR. KOHN:

"Q I would like to ask you, Mr. Hean, if you can refresh your memory as to why, after the Board acted on and reduced some of these sentences to one year, they were subsequently reduced without any official action of the Board, without any consideration of the Board, to eleven months, five days?

"A I can only answer like this; that the Board did not assemble and felt that they had to permit the man to get out before Christmas. You notice some of these were in the—"

And the second question:

"Did they take that into consideration when they reduced it to one year flat?

"A They probably did not.

"Q Was there anything on the record that would justify such action by the Board?

"A No, I have no record of it, no sir.

"Q That would be arbitrary action on their part. After they met and approved the original commutation, they again revised the date.

"A This I will admit, yes.

"BY REPRESENTATIVE BELL:

"Q Mr. Hean, in other words, they reduced sentences further without having a formal meeting?

"A Oh no, they had a formal meeting. They had a formal meeting.

"Q Where and when?

"A I cannot give it to you; I do not know where they held it. I have no record of it.

"Q Aren't your records normally complete?

"A They are complete as far as—

"Q Why aren't there records on this?

"A We do not keep records of the executive meetings.

"Q Do you keep records as to when they took place?

"A Only as the meeting would come back, I would have a note.

"Q We are dealing with a serious matter here, where you are reducing a man's sentence which is normally done by the Board of Pardons in a formal session.

"A That is correct.

"Q And here you reduce them; may be it is only from one year to eleven months, five days but you are reducing a man's sentence and you have no notes on it."

This is still by Mr. Bell.

"A I have notes. I took notes, oh yes, but they were only for my personal use.

"Q Well how about giving them for the Board's use?

"A I haven't got them they are destroyed."

Now if Mr. Hean did not take any notes or destroyed them, how did all of this get into the record?

A Well long before this investigation was ever thought of, I had this record in my office. I think this was last year when I received this, and here is the record.

Q You wouldn't know why Mr. Hean would have said that?

A He must have been confused on the question.

Q Well, frankly, I was confused when I couldn't get these for over three weeks after I asked for them.

A You should have asked me.

MR. KOHN: That is what Mr. McBride said. No personal affront, Mr. McBride.

Thank you, Mr. Governor.

CHAIRMAN TOMPKINS: Does the committee have any questions?

BY REPRESENTATIVE LOPRESTI:

Q If the Board wanted to revise its own decision, would that have to be initiated by anyone or could the Board initiate that change itself?

A I think the Board could initiate that change itself.

Q Without further hearing or without petition?

A Certainly.

BY REPRESENTATIVE BELL:

Q Governor, has it so acted in any other cases than these Erie County cases?

A I cannot answer that without going through the record. I have no knowledge of it at the moment. There might have been but I just can't—I would have to check each case to see.

BY CHAIRMAN TOMPKINS:

Q Governor, I got the impression during considerable of the testimony in the early part of this inquiry that the rules of the Board are quite fleible and are almost changeable at will. Do you think that is good practice?

A Well I do not think that they are changeable. They are Board Rules and as the House of Representatives has their rules, they can change them whenever they so desire. I think we have the same power but if we do it, we are going to notify the public or anyone that would be affected by it, and I think all the rule changes that we have ever made have been for better procedure.

Q Well, Governor, Mr. Hean made a flat statement here, as I recall it, to the effect that the Board can change their Rules at will regarding special listing, regarding rehearings, whether they have an application for those purposes or not and I think we had one or two cases that indicated that.

A Well I think they have the power to make their own Rules just as the Legislature has.

Q Well I cannot quite agree with that statement, Governor, because of the fact that the Legislature whereas you are dealing with attorneys, you are dealing with defendants, you are dealing with people who are in jail. Maybe that is one of the reasons why so many attorneys do not know the procedure and they have to contact Members of not only this, but prior Boards to find out how do we do it.

A No, I think you are wrong on that. I think the attorneys—there are not so many attorneys who practice before the Pardons Board and I think it is a little different than court procedure. It is not difficult, it is not difficult to learn, and I have been willing at all times to help anybody, tell them what the procedure was.

Now as far as changing the rules, anything that is in the law, we could not change that but we can change some procedure. In fact on the rehearings, it had always been the practice that at the will of the Board, they could grant a rehearing. We decided on a little different procedure because we were getting too many of them; just the fact that they wanted to keep coming back hoping that their chances would be better the next time and we decided that for a rehearing, if it was legitimate, there should be some new and additional evidence submitted so that we would have a reason for a rehearing. We did not want to stop anybody, to close it over that they did not have a chance to be heard and we tried to hear everybody and give them a full and complete hearing at all times. I think your attorney can testify to that; he appeared before us I think. You weren't shut off?

MR. KOHN: No sir, very nice reception, Governor.

SENATOR YOSKO: Mr. Chairman, maybe I am wrong but I think we are failing to distinguish between a change in the rule—talking about a permanent change and in some one case make an exception to a rule. I think that's been the case here from what I have heard. The permanent rule remained unchanged except that after the Board acted, it reconsidered its action in executive session and changed the period of commutation and that would sort of be an exception.

CHAIRMAN TOMPKINS: I am not talking about that now.

THE WITNESS: Now Mr. Chairman, let me say this. If we would change our rules and abolish any rehearings, I would say that is wrong but the procedure, I think we are entitled to make our rules to operate as efficiently as it is possible to operate, and I think that is what we have tried to do.

CHAIRMAN TOMPKINS: Well I agree with you. You should have rules and rules that are stabilized.

THE WITNESS: Then if we tried to change the rules not to have an open public hearing, that would be wrong.

CHAIRMAN TOMPKINS: That is a Constitutional provision.

THE WITNESS: As far as rules of procedure, how to operate in the best possible manner, I think it is within the power of the Board to determine those rules and when we have made changes, we have tried to advise everybody who would be affected by it.

SENATOR YOSKO: That is if the change is going to be permanent.

BY CHAIRMAN TOMPKINS:

Q Yes, we have had several cases here where they file applications and they were advised to file for reargument or special listing or something of that kind, and I gained the impression from Mr. Hean's testimony that

your operations are so flexible that you can just do those things almost at will.

Now excepting in capital cases, don't you think you should have some stablized rules?

A What is that?

Q Except in capital cases, don't you think you ought to have your rules set out as to petitions and rehearings and special listings and so forth, that when they read those rules they will understand and will not have to be contacting the Secretary, Attorney General and other Members of the Board to find out what can we do.

A Well there are always new fellows coming along. I had to learn it; I don't know it all yet but I have tried to learn and I think that will always happen, that the new fellow who comes along will not know our procedure. It is a little bit different than in court and I do not think it is so tough that any person isn't given the right to be heard and their case presented if it warrants it.

Q I agree with you there, Governor. You are to be commended for that but I am wondering if sometimes, if maybe the Rules haven't been relaxed a little bit too much in some cases to permit some of those things.

A Well I do not think so.

Q Except in Capital cases, don't you think there should be—

A I feel that all Members of the Board feel that way.

BY MR. KOHN:

Q Governor, do you think as a matter of policy or as a matter of procedure when rehearings are given, especially in cases like the Mollica case, which was a murder case, and there was a special listing, shouldn't it be readvertised?

A Yes, everybody should be notified.

Q It hasn't been done.

A Well I know of no case.

Q Do you know if the Mollica case was advertised?

A I presume that it was.

Q I would like to see it.

A Although I have no information on that.

Q That case was specially listed and couldn't have been advertised. Don't you agree with me that in a murder case where life imprisonment is involved, that should be advertised with all the rest of them?

A I think that in all cases there should be proper advertising.

Q Do you agree with me that many cases are listed specially when there is no particular reason for the hurry and that they could have been taken in their regular order?

A That is possibly true. I can see the point of the applicant. The applicant or the attorney, for some special reason they want it listed.

Q Do you think that is fair generally to other applicants who may not be able to have smart enough attorneys come in and, after all, it is a consideration, is it not, to the defendant and to his counsel? I am not criticizing you for doing it. I think you may be justified in doing it.

A I think the main consideration is a fair and honorable hearing for any of them. We have to have the rules. If we opened them up—

Q Aren't you opening them up when you do just that on special listings?

A I don't think so.

Q You are granting to one fellow and refusing another, and that is the record of your whole executive session.

A We are only granting them under some new evidence. Early when we came in and I think it was the rule of prior Boards that they could decide if they wanted them—I read to you the record this morning of how many were granted and how many refused of the prior Boards and of our Board, and I think that is more or less the discretion of the Board.

MR. KOHN: I am talking about special listing, not just rehearings.

BY REPRESENTATIVE BELL:

Q Governor, the rule of the Board on rehearings—I will read it again. You have heard me read it before.

"Applications for rehearing will not be heard until twelve months have expired after the hearing of the last application. The Board, however, on its own motion may order a rehearing at an earlier time."

Is that not an open invitation for people to endeavor to bring political pressure upon Members of the Board?

A It could be and that is one of the reasons that we changed the rule, saying that the rehearings would be granted upon new evidence, and we have been turning them down unless they did present new evidence.

Q And did the new rule apply to the matter involving these Erie County cases when the sentences were reduced from twelve months to eleven months and five or six days?

A That was a reconsideration. There was no rehearing on that. They had been acted upon.

ATTORNEY GENERAL McBRIDE: I do not think that had been adopted at that time.

MR. KOHN: Oh yes, September 25 they were adopted.

THE WITNESS: The Board had acted originally and then before it went to the Governor.

BY REPRESENTATIVE BELL:

Q Then may I have a definition of the difference between reconsideration and rehearing?

A Well reconsideration is the Board reconsidering the decision they made. In the first instance we could have said December 15 and there would have been no argument like this but if we would have refused it, then the applicant or his attorney would have asked for a rehearing but this was a reconsideration of our decision.

BY CHAIRMAN TOMPKINS:

Q Might not that procedure be some of the cause maybe for unrest among others who are imprisoned, that they hear about one fellow getting up before the Board and getting reconsideration and getting out and I have been turned down and why can't I be reconsidered, and things of that kind?

A Well maybe it is but then the courts are just as much in error as we are because we do have a recommendation from the judge of Erie County court saying that he could see no reason why we should not give them an additional two weeks or three weeks or whatever it might be.

BY REPRESENTATIVE BELL:

Q Sir, maybe I am a little tired after a long day and

I know you are, too, but do you have a reconsideration of a sentence upon petition of the applicant or is that on motion of the Board?

A The Martin case, which was recommended I think by the district attorney and the judge and we did reconsider it. It was not a rehearing and that was brought out the other day and we were not going against the wishes of either the judge or the district attorney, so there was no reason to advertise that. We were reconsidering that case which we had held up and had not acted upon finally?

Q In that case was the reconsideration on the basis of new facts that were brought to the attention of the Board?

A Well new facts; it was the letter of Judge Evans.

Q Wasn't that a rehearing?

A No, they had not applied for a rehearing.

Q In other words, a rehearing is a public hearing?

A That is right. It is the same as the original hearing, open, as you attended up at our hearing in February.

Q And a reconsideration is actually the executive session?

A We were reconsidering our decision on that.

BY CHAIRMAN TOMPKINS:

Q Well, Governor, tell me. We had quite a record here today of the various positions which the judges and the district attorneys have taken on particular cases that have come before the Board. Did you ever get the feeling at times that maybe the judges and district attorneys were passing the buck to the Pardons Board?

A Very many times they do it and I wish they would make a definite recommendation. So many of those letters come in they say "rely on the Board," and I think the law does state that they shall make a recommendation, the judge who tried the case or the president judge or the district attorney or the assistant district attorney, and I think that by all means they should always make a recommendation rather than to pass the buck to us and say, "You do it."

CHAIRMAN TOMPKINS: Generally, do you have any other questions?

ATTORNEY GENERAL McBRIDE: Yes, to complete the Delaware County cases.

REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Now, Governor, have you analyzed the number of cases on Board of Pardons Exhibit 27 to show how many cases from Delaware County were considered by the Board from March 1956 to and including December of 1956 to round out the period under investigation?

A Yes, this is the exhibit that we had this afternoon. I testified as to from February 1955 to Febraury 1956 inclusive, and that brings it up to the first of January 1957.

Q Now how many cases were considered?

A In this period there were thirty-five cases.

Q How many were granted?

A Four of them.

Q Four out of thirty-five. Now among the four that were granted by the Board, how many did the judge favor?

A The judge favored one.

Q How many did the district attorney favor?

A Two.

Q How many did the judge oppose?

A Two.

Q How many did the district attorney offer no comment?

A Two.

Q How many did the judge offer no comment?

A One.

Q Now out of the entire matter, we have heretofore considered the four cases that were actually granted. Now let us turn to a consideration of the total number of cases considered by the Board. Now the Board granted only four and turned down thirty-one, is that correct?

A That is correct.

Q Now among the thirty-five cases, how many did the judge favor?

A The judge favored seven cases out of thirty-five.

REPRESENTATIVE BELL: Do you mean among the thirty-five or among the thirty-one?

ATTORNEY GENERAL McBRIDE: Among the thirty-five, the total.

BY ATTORNEY GENERAL McBRIDE:

Q There were seven that the judge favored. Now you granted, however, only four.

A Four.

Q So in those instances, the judge was more lenient than the Board, is that right?

A That is correct.

Q How many did the district attorney favor?

A The district attorney favored six cases out of the thirty-five.

Q Again you granted only four?

A That is correct.

Q Now how many in which you had no comment from the district attorney out of the thirty-five?

A No comment from the district attorney in fifteen cases out of thirty-five.

Q How many did you have no comment from the judge out of the thirty-five?

A There was no comment in five cases out of the thirty-five.

Q How many did the judge oppose?

A The judge opposed twenty-one cases.

Q And the district attorney opposed how many cases?

A Seventeen cases.

Q But the Board refused to grant how many?

A Thirty-one.

Q Ten more than the judge and fourteen more than the district attorney they turned down?

A That is correct.

ATTORNEY GENERAL McBRIDE: Thank you, that is all I have.

RECROSS-EXAMINATION

BY MR. KOHN:

Q Who were the four cases that were granted there, do you know, Mr. Furman, and if you have it?

A Charles E. Miller was granted.

Q Do you know the charge there?

A Burgulary, larceny. Vernon Richard Johnson was favored. William Francis Dagg—D-a-g-g and Alphonso

M. Fuglio—F-u-g-l-i-o—were favored.

Q How far does that go to?

A This is up to and including December 1956.

Q Now Attorney General McBride seemed to stress the fact that the Board was much more severe than the judges of Delaware County as far as favoring or not favoring—I mean you didn't grant as many as the judges favored?

A That is correct.

Q And there would be no reason for gamblers coming into the Board rather than going before the judge of Delaware County to obtain—

ATTORNEY GENERAL McBRIDE: They couldn't go before the judge if the sentence was more than two years.

BY MR. KOHN:

Q Going back to the DeVito case, was that sentence more than two years or less than two years?

ATTORNEY GENERAL McBRIDE: That was fifteen.

MR. KOHN: You said they couldn't go before and I am asking you about the DeVito case.

ATTORNEY GENERAL McBRIDE: I have no objection to your going into the DeVito case. That is all right with me.

BY MR. KOHN:

Q I am just asking if you are familiar with the DeVito case which was just recently decided by the Board. The man got twenty-five months and the Board took jurisdiction, did it not?

A I think that was granted.

MR. KOHN: All right, I will go into that later.

BY REPRESENTATIVE BELL:

Q. Governor, I am not trying to harass you here, but there were thirty-five cases and I think you said the district attorney favored six.

A Yes.

Q The district attorney had no comment in fifteen?

A. That is right.

Q And the district attorney opposed seventeen?

A That is right.

Q Well, sir, that is thirty-eight cases; six, fifteen and seventeen.

A Maybe my figures are wrong on one of these. I am not sure. I would have to check the cases, but sometimes the cases are two counties, like Philadelphia and Delaware County, and there will be comments from two district attorneys which could apply to that. We sometimes have that and have to check that to see.

BY CHAIRMAN TOMPKINS:

Q Governor, this morning we had from the period of February 1955 to December 31, 1956, information that the Board acted favorably upon ten applications over what you termed qualified opposition. Do you remember that?

A Yes.

Q Now how many cases among these did the Board act upon over what you would term qualified opposition?

A I would have to go over this and check it.

Q You haven't made that analysis?

A No, that was on the general breakdown. We haven't made it on the Delaware County or the other one that I reported on, but we will be glad to do that.

BY REPRESENTATIVE BELL:

Q Sir, I am adding up the judges. You stated there were thirty-five cases in which the judges favored seven, the judges had no comment on five and the judges opposed on twenty-one and that, sir, I think equals thirty-three.

ATTORNEY GENERAL McBRIDE: There are seventy, which is twice thirty-five. That may be the answer. Maybe it is just that one got switched.

REPRESENTATIVE BELL: No, not the way I add. If you gave me the quick double-shuffle—thirty-eight and thirty-three, sir.

ATTORNEY GENERAL McBRIDE: I thought it was thirty-seven and thirty-three.

REPRESENTATIVE BELL: This is going to be admitted in evidence, sir.

ATTORNEY GENERAL McBRIDE: This is the analysis we promised which was made by Governor Furman, but I think he himself would be glad to go over it and certainly the Board is free to on the information contained in the document itself.

CHAIRMAN TOMPKINS: Now you were going to get an analysis during the year 1954. You were going to get us the number of cases given favorable consideration over qualified opposition. Is the secretary going to get that information for us, Governor?

THE WITNESS: Right.

CHAIRMAN TOMPKINS: And the names of those cases, if you can.

ATTORNEY GENERAL McBRIDE: Yes, certainly we are going to get it but that is the kind of thing you have to dig and dig on.

CHAIRMAN TOMPKINS: I appreciate that, General.

MR. HEAN: We are in the process of getting it.

BY REPRESENTATIVE LOPRESTI:

Q Governor, do you know which cases the Pardons Board has no jurisdiction over and those in which they have concurrent jurisdiction with the court?

A You had better ask one of the legal members of the Board or the Attorney General. I am not a lawyer.

SENATOR YOSKO: Two years, is that right?

ATTORNEY GENERAL McBRIDE: I will be delighted to answer it. The Governor himself has jurisdiction without the aid and assistance of the Pardons Board at all times. He has jurisdiction to grant commutations and pardons only upon recommendation of three out of the four named officers in the Constitution.

The Pardons Board may act on any kind of a case whether it is flat sentence, simple imprisonment, solitary confinement or any other kind of confinement. The court itself is limited by a sentence, whether it be indeterminate in the sense that it has a minimum and maximum providing the maximum is less than two years, so that the Board of Pardons has an all-embracing jurisdiction but it is concurrent with that of the court in any sentence, the maximum term of which is less than two years.

REPRESENTATIVE LOPRESTI: So that the limitation is on the court?

ATTORNEY GENERAL McBRIDE: Yes.

REPRESENTATIVE LOPRESTI: For a period of two years, but there is no limitation on the Pardons Board.

ATTORNEY GENERAL McBRIDE: None whatever.

SENATOR YOSKO: So that the Pardons Board in the DeVito case, as I understand it, did not illegally take jurisdiction of that case.

ATTORNEY GENERAL McBRIDE: They were fully within their rights.

SENATOR YOSKO: I was led to believe—and I did not know better—from the question I was led to believe that the Pardons Board was taking jurisdiction over a case which it had no right to take jurisdiction, but from the explanation you gave us now, the Pardons Board did have a right to consider that case.

ATTORNEY GENERAL McBRIDE: I do not think that explanation will be challenged by anyone.

CHAIRMAN TOMPKINS: As a matter of fact, General, isn't it true that the Pardons Board can consider cases after sentence, but before imprisonment, if they so desire?

ATTORNEY GENERAL McBRIDE: Yes, the Governor has a perfect right to pardon even before sentence. The Governor represent the sovereign as he has come down to us. Prior to 1874 and in very early constitutions, constituent assembly had the right of pardon, but the Governor of Pennsylvania has the right to pardon and to remit fines and forfeitures and to commute and pardon offenders as well before conviction as well as after and the only limitation upon his power is Article IV, Section 9, which says that he can grant commutations and pardons only upon the recommendation of three out of four of the named constitutional officers and I have for the information of the Committee, and I think that this might be a good time to say so, the constitutions of all States in the United States and a consideration of report of the Attorney General of the United States as to the ideal way in which executive clemency shall function. I shall not take any position as to it. I have no vested interest in any determination that this committee shall see fit to make, whether they shall recommend legislation one way or the other, but I suggest to you gentlemen that it is a tremendously important question which you will want to go into very carefully if you want to recommend any changes, quite apart from any suggestion of improvement on the part of this Board or any preceding Board.

If we are to amend the Constitution on this point, we must take care that we know exactly what we are doing and not fall into many of the errors that other States have fallen into and which they have lived to regret.

REPRESENTATIVE BELL: General, sir, do you have sufficient copies so that—

ATTORNEY GENERAL McBRIDE: I have only one copy now. I am ready to hand it over now. It contains a statement of the various Constitutions of the National Probation and Parole Association. It's a memorandum, sent to me by Harrington Adams, the well respected Deputy in my office, which refers to certain investigations made into executive clemency. I shall be delighted to have it reproduced and have a copy for Mr. Kohn and all members of this Committee, but I have at this moment only one copy and any other of this sort of material that comes to my hand, including a report of the British Royal Commission which met in Philadelphia some years ago and which considered the whole subject of capital punishment and executive clemency, we will be glad to furnish the committee with also.

Now I can hand this up to you now or I can have it made into multiple copies so that everybody will have one.

CHAIRMAN TOMPKINS: General, would you make it into multiple copies? We will not submit it as a part of the record but the committee would like very much such information. As a matter of fact, without knowing that you had this information, the committee had already directed a communication to the Joint State Government Commission to make such a study for this committee.

ATTORNEY GENERAL McBRIDE: Yes, I think that would be a splendid thing and I most respectfully suggest when the committee comes to that aspect of its work, it should completely divorce itself from the question of the particular cases involved and the whole setup so that it will be approached on a truly high, thinking level so that we do not run the risk of destroying what we have if it is good or we do not run the risk of preserving that which we have if it is bad.

CHAIRMAN TOMPKINS: Thank you. Any further questions of Governor Furman at this time? (No response)

THE WITNESS: Will you permit me to make just a very brief statement at this time?

CHAIRMAN TOMPKINS: Yes sir.

THE WITNESS: I make this due to the fact that certain judicial officers and some newspapers in the State have criticized this present Board and have stated that we have opened the gates of every prison in the Commonwealth and made a general jail delivery. I want to give the facts and I am not incriminating any of the Board, but I must cite some figures of past Boards and compare them with the record of this Board.

In 1953-1954, there were 2,366 petitions and 767 commutations which is a percentage of 32.4%.

In 1955-1956, there were 2,048 petitions and 339 commutations granted, or a percentage of 16.5%.

Also since it has come up in these hearings, the matter of rehearing, I would like to cite the overall figures on those. I think I gave these broken down this morning. These are totals.

Rehearings are as old as the Board itself, and here is the comparison: 1953-1954, seventy-nine rehearings were granted; eighty-nine were refused.

In 1955-1956, thirty-eight rehearings were granted and ninety-three were refused.

In 1953 and 1954, of the 737 commutations granted, the judges involved were opposed in 1954 cases for a percentage of 20.9%.

In 1955 and 1956, of the 315 commutations granted, the judges involved opposed only 46 cases for a percentage of 14.6%.

The district attorneys involved were opposed in 23.7% of those released in 1953 and 1954 and in 14.3% of those released in 1955 and 1956.

I give you these facts as I stated not as a matter of criticism of any of the Boards but to refute the statements by some judges and some newspapers that this Board has acted in a manner that to make a general jail delivery.

BY CHAIRMAN TOMPKINS:

Q Do you have any information there on the number of cases that were reconsidered? Do you have the number of rehearings?

A I have the rehearings; no reconsideration in any of those years, no.

Q As a matter of fact, Governor, didn't this whole hassle over the Pardons Board start during the last previous Board on a case known as the Peyton case? Isn't that where the basic trouble with the Pardons Board started?

A There was criticism of that case. That was a case I think that the Board had recommended and the Governor refused it.

Q I never heard much about the Pardons Board prior to the time of the Peyton case but since that time I have, and right now I am not so sure that I know too much about it now but that, of course, is pure statistics on the number of cases.

A Of all types of cases.

Q That is the quantity and not the quality of the situation.

A We—that is correct—issued a statement last year, I think I had a copy here, in which we said that we did not believe that you could base the action of the Board of Pardons on percentages, on figures, but that each case must stand on its own, on the facts of those cases, and I want to say this; that there might be a time that a Board might have hearings and they could grant everyone of them or they could refuse everyone, but you never can go on percentages on this because each case is different, different facts.

CHAIRMAN TOMPKINS: Thank you, Governor.

THE WITNESS: Yes sir.

ATTORNEY GENERAL McBRIDE: Mr. Harner.

HENRY E. HARNER, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Your full name is what?

A Henry E. Harner—H-a-r-n-e-r.

Q And your occupation is what?

A I am an attorney.

Q And for a while, at least, did you serve as a Member of the Board of Pardons?

A During the year 1956 from January through December, I served as Secretary of the Commonwealth and as a Member of the Board of Pardons.

Q Now as such, you sat on the cases during that period?

A That is correct, General, I think I attended every session except one day of the February Session. There was one month that I missed the second day because of illness.

Q Now you have been here the entire day?

A I have.

Q Have you heard Mr. Kohn take the position that it was improper for any lawyer or anyone else to talk to a Member of the Board of Pardons regarding the merits of a pending application?

A That is my understanding of the import of what he said during the day.

Q Did Mr. Kohn ever talk to you about the merits of an application pending in which he was counsel?

A Yes, Mr. Kohn had a case last year. I believe it was in the June Session. It was a man from Blair County. I think his name was Kennedy. He was convicted originally of rape, robbery and burglary I believe. He was a lover's lane assaulter. He was I think indicted under at least six more counts.

Mr. Kohn appeared as counsel in that case and the record would so show I believe. I think it was the only case that Mr. Kohn had last year, at least that is my best recollection, and a day or two I think before and not after the hearing, Mr. Kohn called me in my office and the Secretary of the Commonwealth's office told me who was calling and said that he represented the Blair County man in his application for a commutation of sentence. I can't quote Mr. Kohn right now or attempt to quote him exactly not after all these—

Q We want you to give the substance.

A But the substance and the gist of his representation to me was that he represented this man; he felt that he had a meritorious case and he would appreciate anything that I might be able to do in order to get him a favorable hearing.

Q What was the result of his case?

A Unanimously against commutation and I looked up the record in this particular case. My recollection is that at least so far as I was concerned, I voted against it primarily because it was the unanimous recommendation of the entire prison staff that the application was premature.

Mr. Kohn in his conversation—I don't remember what I said to him—but I am sure that he asked me for no assurance that I would do anything nor did I, of course, give him any indication that I would do anything along the lines which he asked.

Q Now do you recall who had been the acting counsel in that case before Mr. Kohn?

A When I looked at the brief which Mr. Hean prepares, I remember seeing that this man—the effective date of his conviction or sentence was in February of 1947 and I noticed that he had applied for commutation in 1948, 1950, 1953 and then in May of 1955 and June of 1956.

MR. KOHN: Would you say that again?

THE WITNESS: I believe it was 1948, 1950, 1953, 1955. I believe Mr. Kohn represented him in 1955 as well.

CHAIRMAN TOMPKINS: Is that record available?

MR. KOHN: I just sent up for it.

CHAIRMAN TOMPKINS: Let us have that record here.

THE WITNESS: I think you will find that is what the record is.

ATTORNEY GENERAL McBRIDE: Let the witness look at it.

THE WITNESS: Here is one card. That is Session, June 1956, the attorney, David S. Kohn—K-o-h-n. Here is one. Well this is marked May and September 1955. I do not know just exactly what that means, but Mr. Kohn was attorney at that time.

Here is the one marked—and there may have been a rehearing on 1955.

Here is the November Session 1953, Patrick E. O'Leary.

November Session 1950, William C. Chase.

I guess this is February 1949, although rather I see down here "P.B. 12/16/48." It would appear this is February Session 1949, Bowman F. Kennedy. According to my recollection of what my brief book said, that first application was 1948. This would seem to indicate that who ever typed up the brief book made an error in that case.

ATTORNEY GENERAL McBRIDE: Cross-examination.

CROSS-EXAMINATION

BY CHAIRMAN TOMPKINS:

Q Do you have your brief book here, Mr. Harner?
A I do not have it here.

Q Do you have your brief book yet?
A Yes I do.

Q Is there a copy of that as far as the Secretary is concerned? Is there a copy of your brief book on file with the Secretary?

A I have my brief book. It is not on file with the Secretary. I have it in my possession.

Q Would you bring that brief book in?
A I would be glad to.

BY REPRESENTATIVE BELL?

Q Mr.—it is Mr. Harner, isn't it?
A H-a-r-n-e-r.

Q When Mr. Kohn telephoned to discuss with you the substance of the case, did you refuse to talk with him on that subject?

A I listened to what he said. I have known Mr. Kohn for about thirty years. He and I went to college together. I was from York, Pennsylvania; he was from Harrisburg, Pennsylvania. After we finished college and law school, although I don't think he went to law school just at the same time that I did—that is my recollection. He can correct me. We both came to Harrisburg and we both practiced law here together since that time. I certainly wouldn't hang up the phone in his ear, and I listened to what he had to say.

Q When you sat as a Member of the Pardons Board, is this the only occasion that you ever talked with anyone, attorney or otherwise, concerning the substance of a case?

A This was not the only time that someone called me about a case; no, I didn't say that.

Q And you discussed the substance of it?

A Mr. Kohn didn't discuss the substance, as I recall, of this case. The gist of his conversation—he is here. He can tell you what he said. As I remember it was simply that he represented an applicant coming up the next day or a couple days later; that he felt his client had a meritorious case and he would appreciate anything that I might be able to do to give his client favorable consideration. That was the gist and substance of it.

Q I am going to come back to my question, sir. Have you ever discussed with anyone, whether attorney or otherwise, the substance of a case prior to its being heard by the Pardons Board during the period that you sat as a Member of the Pardons Board?

A I can only answer that question—your name is Bell, isn't it?

Q Yes, you can answer "yes" or "no."

A Well I will answer the question and then I will explain if I may, Mr. Bell. I think I would have to answer yes, there were several other cases.

Q Now do you recall any of these cases?

A I recall one case. I don't remember the name. The one case a Reverend Wagenseller, Episcopal Minister of this city, came to my office sometime last year saying that, as I recall, a Reverend Smith from Philadelphia had asked him to come and talk to me about a particular case.

I would like to say this, too. Of course, he was a friend of mine; we had known him for many years. We both belong to the same service club, and I did not like to be discourteous but when approached by anyone, my reaction was somewhat of resentment because I felt it was somewhat in the nature of attempting to discuss with a judge or influence a judge before he made his decision what that decision should be. I recall that that was one instance.

I recall that in the Shaeffer murder case in Perry County, that the district attorney in that county, Charles Kugler, whom I have known for several years and to whom on one occasion at least I had sent business to in that county, called me a day or two before the Shaeffer case originally came before the Session in which I was sitting and warned me against taking any action which would be favorable to the granting of clemency in that case because he said that the people of his area were against it, and he warned me that it would be the wrong thing to do.

I seem to recall that someone called me on the telephone from Bucks County about a case—I can no longer remember what case it was—and said that he was a member of the coalition down there, the Democratic coalition down there, and asked for favorable consideration in some case. I do not recall what case it was. It would be impossible for me to tell you who the man was.

Q Have you ever—

A Offhand, I can't recall any others. Oh, there was one family who came to see me. As I recall, it was a mother and father and that is why I think it would be dangerous to make the Corrupt Practices Act applicable in these cases, because parents, families, sometimes try to get to see you at least and it is a very touchy situation.

One mother and father came to see me I remember about a young man who was convicted down in, I believe in the Norristown area, and who was sent to Morganza. I think he was mentally ill and they wanted his sentence commuted so he could be sent to the V. A. hospital. At the moment I don't recall any other instances. Oh, I had a number of letters sent to me by people who either were for or against something. Sometimes if I felt that the circumstances required, I would send it to the Secretary of the Board. Other times I may have destroyed them.

Q Now have you ever refused to talk with anyone with respect to the substance of a case to be heard before the Pardons Board?

A I canot recall that I have ever refused but I certainly discouraged it or I made no comment and, as I said in the beginning, my reaction was one of resentment and dislike that they would call me and attempt to discuss the matter with me.

REPRESENTATIVE BELL: Thank you, sir.

BY CHAIRMAN TOMPKINS:

Q Did you ever say anything to any of these people that you think you should not properly discuss the matter with them?

A I do not recall whether I said any such thing to any of them, Mr. Chairman.

Q Do you think the Pardons Board Members, when they are approached like that, should advise people that members of the Pardons Board are not permitted or should not discuss the merits of a case with them?

A Well I think essentially maybe they should, but sometimes it is a little difficult situation as to just how to handle. It is easy enough for you fellows to sit there and criticize the Pardons Board for some of the nuances, some of the things they do, but to be on the Pardons Board and try to discharge your obligation to the Commonwealth and the Governor properly and faithfully, and yet be responsive to the demands and the needs of the people of this Commonwealth, sometimes puts you on the hot spot and sometimes it is not always the simplest thing to do, but if you are sitting by and looking on—

Q Mr. Harner, for your information, this committee yet has not criticized the Pardons Board. We are sitting here trying to get information to find out how the Pardons Board has been functioning.

A But I would like this committee to know that I look upon this as essentially a political inquisition; that there is not more than five cents worth of principle mixed up in this whole deliberative body, this whole investigatory body. In my opinion this thing began—maybe it began with that case in the westernn part of the State which you mentioned awhile ago, but it was the Philadelphia Inquirer so far as my recollection is and by observation that began this whole thing for whatever ulterior motives it had early in this Administration. That flame that they lighted was fanned by a Delaware County Judge, Judge Bretherick. I would not know him if he came in here; I never saw him but certainly I got the idea over the year on the Pardons Board that he was a little judicial god unto himself and when he told this committee that he felt that the present Board ought to be changed, he didn't mean that at all. I know exactly what he meant He meant that the Pardons Board should be abolished as long as it did not agree with everything he thought and believed in and stood for.

The Patriot. or rather the Patriot of this city, shortly after the Inquirer began this tirade and this attack upon the Pardons Board, in one of its editorials—I sat at my breakfast table and read it—picked it up, and in a sense repeated the essence of some of the Inquirer's attack and thought that there ought to be a Pardons Board investigation.

Nobody on the editorial staff, no member of the Patriot, ever approached me—and I was on the Board at that time—to ever ask me a question about how the Pardons Board operates, what its functions are or anything else about it. They merely picked up a sort of gossip, what the Inquirer started, and tried to fan this into a great blaze and then we came into a political campaign last fall, and Mr. Beck's fifth amendment counselor took it up and launched this as a political attack and there was a political attack in Dauphin County here where I was a candidate at the time. It then became a political football and here is an advertisement that appeared several times, at least, that I saw in the local press prior to the election last fall and this is addressed—and I will read it—to:

"Henry Harner, Democratic Candidate for State Senator

"The people have a right to know:

"1. How you would vote on the income and wage tax that your boss, Governor Leader, proposes to force down the throats of the voters, in the next Session of the Legislature?

"2. Why do you, as a lawyer and as Secretary of the Commonwealth having been sworn to uphold the law, set aside the decisions of the Pennsylvania and United States Supreme Courts by commuting the death sentence of the killer, David Darcy, thereby substituting political favor for the verdict of the citizens?

"Speak up Candidate Harner."

Signed, "The Young Republican Club of Dauphin County.

"R. W. Cleckner, Chairman"

And after the election at the next session of the Board, Mr. Cleckner had two cases scheduled and he did not show up. I saw him a short time after, down at the courthouse in Harrisburg, and I said to him, "What's the matter, no guts?" He said to me, "What do you mean?"

"Well," I said, "you did not show up at the Pardons Board today and you had two cases and you sent one of your associates."

"Well," he said, "you know my name was signed to that but I did not have anything to do with that; somebody else did that."

Q Let Mr. Cleckner come in and say that.

A That is what he told me and I am telling the board.

Q Get Mr. Cleckner to come in and say that again and furthermore—

A Let me finish if I may, sir. I would just like to call this to your attention as well. It seems to me highly significant so far as I have ever been able to ascertain or determine, that not one single former Member of a Pardons Board of Pennsylvania, except Mr. defeated candidate Duff, has ever said one word in favor of or against this political inquisition, and I would like to add to that this one single statement.

It must have been sometime around May or June last year, I do not recall the month anymore, but I was in my office one day when Bill Livengood came in to see me. I do not recall—he may have had some matter back in the Corporation Bureau, but largely it was to fan the breeze. You will recall him as a former Secretary of Internal Affairs who sat on this Board for sixteen years. His question to me was in essence, "How do you like your job sitting on the Pardons Board," and I told him then that of all the duties of Secretary of the Commonwealth, even maybe above and beyond the Cabinet of the Governor of this great State, the honor that it was sitting on it, that sitting on the Pardons Board of the Commonwealth of Pennsylvania was a great challenge and I felt that I wanted to discharge the duties of that office to the best of my ability but I did say that I always had the feeling, in the few cases that I appeared before prior Pardons Boards on the other side, that there was something missing here. I said the Members of the Pardons Board that

sit up there on the bench, they have far more information at their hands, confidential information concerning the prisoner and here is the lawyer down there making a pitch, and in ninety-five per cent of the cases, they know half as much or less than the Pardons Board sitting up there.

Bill Livengood—if you ask him—said to me, he said "I sat on the Pardons Board for sixteen years and heard thousands of cases, and it is my opinion that the present setup is the best one that we could devise."

Now if you would like to address some questions to me, Mr. Chairman, I appreciate your permitting me to get this off my chest but I told you exactly how I feel and I wanted you to know.

CHAIRMAN TOMPKINS: Well I want to make it very clear to you and to everybody else, Mr. Harner. This committee is not sitting as a political inquisition. This committee was authorized by Joint Resolution of the House and Senate of the General Assembly of this Commonwealth of Pennsylvania, and we were set up under a resolution to that effect and we are here to do what we consider, to the best of our ability, an honest job on an inquiry into the Pardons Board procedures and practices and if there are any abuses, they are to be included.

When you come to the question of who first injected politics into the Pardons Board, I say it was in the Peyton case back in 1954.

THE WITNES: That was a Republican Administration.

CHAIRMAN TOMPKINS: Yes, that was a Republican Administration, and who first injected politics into the Pardons Board?

THE WITNESS: Well I would like to say this right here and now. I am not prepared to discuss some of the other cases. I came here merely at the response of the instruction of the Attorney General, to answer some questions that the Attorney General wanted to put to me, but so long as I sat on the Pardons Board—and I can only answer for the time when I sat there and the year that I sat there—no Democratic politician tried to influence my judgment in any of the cases that we have seen wide publicity about in the newspaper or any other cases as far as that is concerned.

CHAIRMAN TOMPKINS: Well I thoroughly resent your accusation, Mr. Harner, that this committee is nothing but a political inquisition. I have never just felt that way in the six terms that I have been in this General Assembly and I don't propose to start now.

THE WITNESS: Mr. Chairman, I can understand your resentment but please let me call this to your attention.

I have lived in Harrisburg and I have been engaged in politics. I have been politically active as a Democrat in this county most of my adult life. I have lived in the shadow of this Capitol. I have seen them come and go, but I say this smacks of political fakery and hypocrisy such as I have never seen before. This is my personal opinion. I am sorry to offend you but that is exactly how I feel about it.

BY REPRESENTATIVE BELL:

Q Mr. Harner, are you just trying to smoke screen things here?

A Well, that depends upon the viewpoint. I am telling you how I feel, Mr. Bell, and I am telling you very sincerely, and I would not tell you that if I didn't feel that way. Now what is the smoke screen? I came in here and I said that Mr. Kohn called me about a case and then some questions were asked and that led into this.

SENATOR YOSKO: Mr. Chairman, I want to add a little something to it. Are you through yet?

BY REPRESENTATIVE BELL:

Q By your statements here tonight, Mr. Harner, aren't you trying to undermine whatever findings this board would make?

A No, I think this board could, if it would maybe contribute to the advancement of good government in Pennsylvania. Certainly the operation of the Pardons Board I believe in some aspects, at least, could be bettered. I think that this mission, this so-called mission of the committee investigating the Pardons Board, if it is not an investigating committee, could lead to some good results. Certainly you ought to call in the penologists, certainly call in the judges. For every one Bretherick, you certainly ought to have other opinions on this whole situation, and the Attorney General gave you awhile ago a report which surveys this whole situation. Oh, I think this committee could do a job but not in the way it has set out to do. All I have heard here today was just making a mountain out of a molehill. It didn't even bring forth a good sized—

CHAIRMAN TOMPKINS: Mr. Harner, why don't you wait until this committee makes its report before you pass judgment on what we are doing?

SENATOR YOSKO: Mr. Chairman—

REPRESENTATIVE BELL: I am not through yet, Senator.

BY REPRESENTATIVE BELL:

Q Mr. Harner, as an attorney, are you familiar with the phrase "red herring"?

A I am familiar with the phrase "red herring" without being an attorney.

Q Aren't you now endeavoring to put a red herring across the trail of this Pardons Board Investigating Committee?

A No, I am not, Mr. Bell.

Q To confuse the people of Pennsylvania?

A No, Mr. Bell, I sat here tonight and I doubt if what I said here tonight will be reported in Joe Miller's Inquirer tomorrow.

MR. MILLER: You wouldn't like to bet, would you? Put your money up.

REPRESENTATIVE BELL: My only regret, sir, is that we have absent two Members of our Pardons Board Investigating Committee, and I am not going to say anything more than this; that I view your outburst as a deliberate attempt to put a red herring across on the people of Pennsylvania and you are endeavoring by your outburst here tonight to discredit this Pardons Board Investigating Committee.

THE WITNESS: Now, Mr. Bell, let's assume but let's assume that you are right. Then it seems to me that you can prove conclusively to the people of Pennsylvania that what Harner said is not true by the way this hearing is conducted and by the people you call in and interview and the kind of a report that you read. I would be

delighted if you make me a false prophet, but that is the way I feel.

CHAIRMAN TOMPKINS: Why not withhold your judgment until we file our report?

THE WITNESS: Because I haven't seen anything yet.

CHAIRMAN TOMPKINS: Didn't you hear about Judge Evans and Judge Laub being in here?

THE WITNESS: I haven't seen anything yet that would be anything but substantially a political determination; a majority and a minority report is my guess. I hope I am wrong. I hope you are right, Mr. Bell; I will be delighted.

BY CHAIRMAN TOMPKINS:

Q Mr. Harner you expect a majority and a minority report on this?

A That is the way things generally happen in Pennsylvania.

REPRESENTATIVE BELL: Mr. Harner, I, as a member of this committee, am willing to let the people of Pennsylvania be the persons who make the judgment of this committee and what it does and that is the only group that I feel responsible to, the people of Pennsylvania.

THE WITNESS: I had the same feeling of responsibility, Mr. Bell, when I sat as a Member of this Pardons Board, and was attacked from the time I took office as Secretary of the Commonwealth until I left, and resulting in an investigation of the Pardons Board. Why didn't you investigate the last two years of the Republican Administration? Why are you confining it to the two years of the Democratic Administration?

CHAIRMAN TOMPKINS: Why don't you wait until we are done with our investigation before you make such a statement as that?

THE WITNESS: Well I don't think you are going to go into that.

CHAIRMAN TOMPKINS: Oh yes, we go back to 1950 if you read the resolution, Mr. Harner. We are charged with the responsibility—

THE WITNESS: I just want to add this, gentleman. If I am wrong, after this is over I will be happy to come up here and apologize to all of you. I would be most happy to do it.

CHAIRMAN TOMPKINS: We wish you would withhold such judgment until after this investigation is finished instead of dragging a red herring—

THE WITNESS: No—

CHAIRMAN TOMPKINS: I charge you with it and I will back up Mr. Bell on this statement.

SENATOR YOSKO: Mr. Chairman, I agree with you that the Board is here for the reasons that you gave. However, so far as the political tinge is concerned, Mr. Harner beat me to a statement that I was trying to make for the last five minutes, and that is we have been sitting here for five weeks and although the resolution calls for a review of cases from January 1950, not one single case has been presented to this committee or has been scheduled for hearing involving the previous Administration and I believe—and we discussed this in Executive Session—that we should have started from the beginning, from January 1954 and worked forward, but instead of that we have heard nothing but cases that involve this Administration. Now I am told that the Darcy hearing is to begin next week, and I just don't think that is fair and because of it, people generally have come to the conclusion that this is solely an investigation of the present Pardons Board and that there is no intention of going into cases of the previous Administration.

I want to say for the record—and I wouldn't have said this if this thing wouldn't have gotten started—that the staff or the counsel that we hired asked for a staff to work with and there was no objection on the part of anybody. As a matter of fact, when we were in Executive Session and Mr. Kohn complained about too much work, I was the one that voluntered on two occasions to increase the staff so that he could properly conduct this inquiry, but in spite of the fact that there are four people on the staff. not one single case involving the previous Administration has been listed or heard in the five weeks that we have been functioning. I realize that we have not been functioning the entire five weeks but I do hope that we will step up our activities and our hearings, and that we will hear some cases from the previous Administration so that we could at least make a comparison in practices and procedures and considerations by the previous Boards as compared with this Board, and I believe that one of the people on the staff—and if they want to enlarge the staff, I am for that—one person on the staff could certainly go up to the Pardons Board and read cases and do exactly what we had agreed to do in the first instance.

It was agreed that a list of all capital punishment cases was to be prepared and submitted to this Board, and we were then to sit down and list those that we thought merited hearing. I have not seen that list yet.

There was a second list to be broken down of cases other than capital punishment cases, and that was to be submitted to us and we were to select from that group, cases that we would list that merited hearing. I have not seen that one either and it seems to me, it seems to me that not the board but the staff, the Counsel for the Board, is running this investigation in so far as the selection of cases is concerned, and I would like to have submitted to this board at the earliest possible date a list of cases starting from 1950, and I propose tomorrow, since there were no cases submitted to us, I propose tomorrow to give Mr. Kohn and his staff a series of cases to list, and I think those cases either ought to be listed and heard before we get into the Darcy case because after the Darcy case is heard, the rest of the hearings will be anticlimax, shall I say, and the interest in the whole thing will fall and the first thing you know, the time will have expired for the board to function and that will be the end of it and the onus, if any at all, will be upon the present Board because only cases that involved the present Board have been heard, and I just don't think it is fair.

I did not want to make that statement, but since this thing has been throughout here, it is only fair to get our side of the story on the record too.

CHAIRMAN TOMPKINS: Now Senator—Mr. Kohn, how many cases do you have there already prepared involving prior Boards?

MR. KOHN: About ten there I think.

CHAIRMAN TOMPKINS: That you have on you list to submit?

MR. KOHN: Yes.

CHAIRMAN TOMPKINS: To furnish with the names of cases that he would like to have heard?

MR. KOHN: Mr. Tompkins, I do not like to fight with my boss, Mr. Yosko, but I would like to say—and he can tell you if it isn't so—that I have been after him since last Friday to come up with me. In fact, he was up there last week and I asked him to sit down and tell me the cases he wanted to give me so we could get to work on them. I think I have been around here much more than Mr. Yosko and have been working twelve to fourteen hours a day, trying to not only investigate the cases but interview the witneeses whom we have to present. Some of them are out of town, and over the week ends we have been traveling. We've been to Erie, Bucks County, Philadelphia, Eastern Penitentiary, New Jersey. We've been many, many, places.

While I sincerely appreciate Mr. Yosko's staff, certainly a staff of these people to do an investigation involving over six years, would require at least a staff of twenty-five people.

SENATOR YOSKO: Just let me say this. It isn't my function, as well as it isn't the function of the rest of the board, to go up and select the case. I have a lot of other things to do, but inasmuch as there were no cases suggested from 1950 on up, I did from time to time say that I reserved the right to submit a list of such cases and let me say, too, that the cases that Mr. Kohn has prepared, I do not know what they are because I never got a copy of them and, therefore, I do not know whether they go back to 1950 or where they go back to, but the general idea was not to conduct public hearings on those cases. The general idea was to make a brief of those cases a part of the record and this morning when that was brought up or yesterday, I said that this was agreeable with me, but I reserved the right to list those cases from the group that they might have for public hearing if I deemed it proper and fitting, and I still reserve that right, but I repeat now that I will give Mr. Kohn tomorrow in writing and I will send each member a copy of my request to list a series of cases involving previous Pardons Boards, and I would like to see those cases disposed of before we go into the Darcy case.

CHAIRMAN TOMPKINS: Now, Senator I want to straighten out something. Our Counsel, Mr. Kohn, has done exactly what you have here suggested. He has not had an opportunity today to present them by reason of the fact that we had told General McBride that we would permit his witnesses to be called and heard today. Now as soon as those witnesses that General McBride has are disposed of, our Counsel is prepared to proceed along the very lines that you said that the Executive Session agreed upon, and that is to present briefs of a great number of cases, going back in 1950.

MR. KOHN: Mr. Chairman—

SENATOR YOSKO: None of these cases were presented in brief form, not even a suggestion was made that these cases be presented in brief form, and neither is the Darcy case going to be presented in brief form. I don't think it is fair to distinguish between the one case and another case. If a case has merit, it ought to be heard and every case ought to be treated in the same light, including Darcy and Peyton and everybody else. Either we are going to hold public hearings or we are not going to hold public hearings; either we are going to prepare a brief and make the brief a part of the record or you are not. It is one or the other.

MR. KOHN: You can't have procedures—two types of procedures.

CHAIRMAN TOMPKINS: That question was never raised in Executive Session before, Senator.

MR. KOHN: Mr. Chairman, I don't like to get into these things, but it seems like I have been a target of Mr. Yosko ever since this investigation began, both in committee meetings, openly and in the newspapers. I don't intend to defend myself because I know that most members of this committee know what I have been doing, and I do feel that we have discussed in Executive Session a schedule which was to be adhered to and which I asked for for the purpose of being able to subpoena witnesses. Mr. Yosko seems to forget that he took part in that discussion and agreed as to the dates and times of the hearings and who should be heard.

We set out a definite schedule at our last meeting. Now he wants me to call off the witnesses who have already been invited and subpoenaed and go into other cases. If that is what you want—

SENATOR YOSKO: Mr. Kohn, I said at the Executive Meeting that we had that I didn't think it was fair to bring the Darcy case up at this time until we heard some other cases. I said then in the committee meeting that I agreed that any other cases you brought up after the Darcy case would be anticlimax. I said that.

MR. KOHN: Mr. Yosko—

SENATOR YOSKO: Wait a minute. Did you get permission from this board before you scheduled the Darcy case? No, you didn't. You came in and told us in Executive Meeting what was going to be scheduled.

MR. KOHN: I can't schedule anything.

SENATOR YOSKO: Isn't it true that you have been working on the Darcy case since this started, working it up? You have been working on this case since it started?

MR. KOHN: Certainly.

SENATOR YOSKO: I'm not picking on you, Mr. Kohn.

MR. KOHN: That is my personal opinion, Mr. Yosko.

SENATOR YOSKO: I have said it before and I say now, nobody is being arrested, nobody is being indicted, there is nobody being tried. Therefore, there is no prosecution here and we do not need a prosecutor. We are here to get facts, fairly and impartially. for the consideration of this board to determine two things; whether political influence has been exerted upon the Board which, in turn, might have influenced their decisions, and to determine whether or not the Board abused the authority that was granted to it and that is all we are here for. We are not here to prosecute anybody or to persecute anybody.

REPRESENTATIVE BELL: You took that sort of an attitude when we first stated these cases. Mr. Chairman, we have heard a great outburst from Senator Yosko. This outburst did not occur in Executive Session. Maybe it is because we were in a closed session and maybe it is because we do not have a full board at this time and, Mr. Chairman, I suggest respectfully—

REPRESENTATIVE LOPRESTI: Let me interrupt just one moment. Before Senator Fleming left, it was agreed that another member of the majority could cast a vote for him. Now if you have any question to take up at

the Executive Session, it is understood that you have more votes than we do, so I don't want to hear any more about having members here.

REPRESENTATIVE BELL: Mr. Chairman, may I answer that? I am not talking about a vote; I am talking about two Senators of Pennsylvania being absent tonight who are not able to be here and, therefore, Mr. Chairman, in view of the confusion and wrangling, I would suggest that we adjourn until tomorrow morning.

SENATOR YOSKO: Anything that I said here tonight, I said before the board at Executive Session. I may not have said it in the same tone of voice.

REPRESENTATIVE BELL: What day?

SENATOR YOSKO: But you didn't say some things in Executive Session that you said here tonight either.

REPRESENTATIVE BELL: We didn't have Mr. Harner there.

SENATOR YOSKO: Every executive meeting that we have had, I have said at the executive meetings the same thing I have said here except maybe I have not said it in the same tone of voice.

CHAIRMAN TOMPKINS: A lot of this discussion covers matters that properly belong in Executive Session, and I am going to rule out any further discussion in connection with it. We will proceed from here in connection with our inquiry.

MR. KOHN: May I ask Mr. Harner a few questions?

CHAIRMAN TOMPKINS: Certainly.

BY MR. KOHN:

Q When I called you, I told you this was the first case I ever had before the Pardons Board?

A I have no recollection. Let me put it this way. I have no recollection that you told me that and if I had to answer, I would say you did not tell me that.

Q And I told you that I felt that this boy was up before and had lost more fingers in the shop and had bad breaks, and I wanted you to look into the case very carefully.

A I wouldn't say. I said to this committee that you said you felt that your client had a meritorious case.

Q Well would you say here that my call was to influence you or for you to look into the case?

A Well let me answer that this way without saying "yes" or "no" to your question. Why would you feel it is necessary to call me aside from my official participation in this case, seated on the bench in the Supreme Court Room, unless you felt that by calling me you might influence me to do something?

Q Did I ask you to do anything?

A My recollection, as I stated, was that you asked me to give whatever favorable consideration I might be able to in this case.

Q According to the facts. You wouldn't say I did not say that?

A I felt that you were trying to get my help in this case on behalf of the case.

Q That is your opinion, but you are basing that on the fact that I made a call.

A You did not ask me for any assurance.

Q And I did not ask you what you were going to do?

A I don't think.

Q You know.

A I can't tell you, no, what you and I said.

Q You gave a great deal of testimony as to what I was alleged to have said and now you can't say, you can't remember whether I asked you for any definite decision or not.

A My recollection is that you did not ask me for any commitment. I said that originally.

BY REPRESENTATIVE BELL:

Q Mr. Harner, I would like to go into some of the procedures followed on the Hill with respect to the Pardons Board record. The Secretary of the Commonwealth is the official custodian of the final Pardons Board commutation records?

A The Secretary of the Commonwealth, as I recall, keeps a record of the reasons, why commutations are granted and we keep up there also the transcripts of the arguments that are heard there.

My recollection—and Mr. Hean could bear me out—I think the official commutation or pardon is sent to the person himself and their office keeps a copy of that.

Q The Secretary of the Commonwealth is the place of record for the retained copy of the reasons?

A That is correct.

Q Now does the Secretary of the Commonwealth furnish to the Clerk of the House of Representatives another copy of those reasons?

A No, I think the Governor does that. At the beginning of each Session, the Governor sends to the House and to the Senate, I think to both bodies, the reasons for granting of the commutations and they are printed I think in full in the Legislative Journal. I brought that to the committee office.

Q That is why I asked you the question.

A That is right.

Q And they are official copies as far as you know that go to the House and the Senate?

A Yes.

Q And they would be correct?

A Oh, I think so. I can only tell you what I think and I would think that they were.

BY CHAIRMAN TOMPKINS:

Q Mr. Harner, do you know what the final disposition of that case was Mr. Kohn called you about?

A Yes, we turned it down and I think I stated what principal motivation I had in turning it down.

Q Do you know what they did with the case where the Reverend came to see you?

A My recollection was that that was granted.

Q Do you know what they did in the case where the parents came to see you?

A My recollection is that that was refused.

Q Do you remember what was done in the Shaeffer case?

A Yes sir, in the Shaeffer case the matter was argued. I am just trying to recall now. I voted for it. I think Governor Furman opposed it. I don't recall. I think—well I can't recall how Miss Blatt and Attorney General Cohen, what their disposition was, but we finally decided that the district attorney—we listed, the Board, as I recall, the Board listed that for reargument and suggested to the district attorney of Perry County that he go down to the prison and interview this applicant

who had been there about twenty-nine or thirty years. That is my recollection because the district attorney came down here and vigorously opposed this. At least my own thought was that he had done little on the thing to determine whether this man had been rehabilitated, despite the fact that he had committed murder and that the daughter—the record would seem to confirm this conclusion or opinion on my part—that the daughter of the decedent kept this thing in turmoil. Each time an application was made, she would go up there, have petitions circulated and get everybody stirred up. Judge Crytzer, it is my recollection, originally wrote a letter in which he said he took no position in the case and then later followed that up once this began, the daughter began to stir this up, followed this up with a letter reversing himself and saying that he did oppose it.

The ultimate disposition of the Shaeffer case, as I recall, was that after reargument the district attorney came back, said he had gone to the pentitentiary, said he had interviewed the man, was impressed by him except that after he had talked to him—the record will show this and it is just my recollection of six months ago—that he thought that maybe from a psychiatric standpoint he should not be released. The Board then took that fact into consideration before it finally disposed of the case. We got a report and had a psychiatric examination, which was a favorable one, and then the Board voted three to one, with Governor Furman voting against, in favor of the commutation.

Q Weren't there commutations in the file from members of the family expressing fears if this man were left out?

A There were.

Q Because of the fact this man had made threats in connection with the remaining members of the family?

A You must remember, Mr. Chairman those alleged threats were made thirty years ago at the time of this crime, not during the last thirty years. Those threats, if they were made, were made thirty years before. That is one of the things that the—one of the reasons, as the daughter said, why she opposed it and I don't say that the daughter did not believe that but it just didn't seem reasonable to me at least, as Member of the Board, that this man who had an excellent prison record over a period of thirty years would at this time in his life come back there and try to molest a member of the family. That didn't make sense to me.

CHAIRMAN TOMPKINS: Do you have a brief on the Shaeffer case?

MR. KOHN: Yes.

BY MR. KOHN:

Q I take it you are very sincere about your criticism of the Board of Pardons. I suppose that goes both ways.

A What is that?

Q Regardless of who is in the office of the Board of Pardons?

A I don't think I criticized the Board of Pardons, Mr. Kohn.

Q You are critical of anybody that investigates them or criticizes them?

A No, I am not critical of anybody who investigates them.

Q You say that the Inquirer instituted this?

A The Inquirer is entirely unjustified. That is my opinion, Mr. Kohn, as a Member of the Board for one year.

Q You have been a politics as long as—

A When did you get out of law school? I know we were college classmates but I don't think we were together in law school.

Q I was thirty-three.

A You were thirty-three; I was thirty-one.

Q Do you think it would be fair in a gubernatorial campaign, with a case like the Peyton case, for the Democrats to criticize the action of the Board of Pardons for political purposes and then having the applicant suffer thereby because of the publicity that the case gained?

A I think unless there was evidence of impropriety and improper influence, it would not be a good subject of political discussion no matter who is the party.

Q Did the Peyton case come up before you?

A No, I say no like that but I heard about a thousand cases and I don't believe it did.

Q When were you on the Board?

A January 1956 through December.

Q Now the Peyton case came up March 12, 1956, in which J. T. Simon requests rehearing because it was badly publicized by the fact that it was a political factor in the previous election and cited the fact that the original jury that tried this second degree murder case was nine to three in favor of acquittal and thought he should have a rehearing, and did you vote on that?

A I don't remember Mr. Kohn. Did that come up in 1956?

Y Yes.

A I don't have any recollection at this point. You will have to look at the record. The record will speak for it.

The Peyton case, as I recall, after hearing Governor Furman and the Chairman refer to it was out in the western part of the State and it would not be nearly as familiar to me as matters in the eastern part.

Q Would you be surprised that even in spite of all those factors that you didn't believe should be made political hay of, you opposed granting of a rehearing?

A I say I don't recall what I did, Mr. Kohn.

Q You were sitting on the Board, were you not?

A Yes sir.

Q You knew the case?

A Mr. Kohn, I don't remember.

Q You do not remember the Peyton case at all? In March of 1956, were you a Member of the Board of Pardons?

A Certainly I was.

Q And you denied a rehearing?

A I do not know.

Q Is that what it says? "A reargument was unanimously refused the following: Charles Peyton."

A If that is the same one, then we did.

Q You don't remember that. Do you think this Board, even though it is presently constituted the way it is, should refuse to grant Peyton anything that anybody else would get like Mollica?

A I don't know anything about Mollica. When was that decided, Mr. Kohn?

Q That was decided in 1955.

A I was not on the Board then.

Q Was another application filed in 1956 for Peyton?

A I do not recall that either. You see in an application for a rehearing—is that an application for a rehearing?

Q No, that is a new application.

A Was it heard in 1956?

Q Yes.

A What was the recision? I do not recall.

Q Well the action was denied, of course.

A What do you mean, "of course"?

Q All of you denied it.

A That doesn't mean "of course." We didn't always agree. I told—

Q Do you know whether you voted for the Peyton case?

A I would have no recollection.

Q You would have your minutes?

A Yes, what minutes?

Q The minutes of the Peyton case, the original sheet which you made notes of.

A I thought you said this was a matter for reargument.

Q I asked you about the reargument in March 1956. There was a new application presented which was denied September 7, 1956.

A If it was denied, I would have voted on it.

Q You would have your notes, as to the notes you made during the argument?

A I have. I have my brief page which indicates how the Board voted.

Q You do not know how you felt about the matter? You took no notes on it?

A Ordinarily I would mark my book like this: four "noes"; three "yes," one "no"; one "no," three "yes"; or two "yes," two "noes."

Q When did you mark that, after the case had been heard with all the other cases?

A No, ordinarily what I would do, after the argument was concluded I would then mark my book. Sometime I marked it "no," sometimes "yes"; sometimes "yes" with a question mark, sometimes "no" with a question mark: sometimes merely a question mark.

Q On murder cases, did you make any notes as to why you opposed it or why you were for it?

A I do not recall that I took any notes.

Q Did you take any notes on any of the murder cases?

A You mean notes of the argument?

Q Notes of the argument, what counsel brought out, what factors you considered?

A I don't recall that I have ever took notes of arguments. I might jot down a phrase or sentence occasionally. If I did, I put it right there on the brief that was prepared by the Secretary. That is the only note that I would have, just as Governor Cohen—Furman. I have been here all day and I am getting a little weary of this place. I will just retract that.

BY CHAIRMAN TOMPKINS:

Q Will you bring your brief in tomorrow morning?

A Now what do you mean by "your brief"?

Q Your book.

A For which month?

Q Don't you have a book similar to what Governor Furman has had here today?

A If the Governor will show me, I will tell you.

(Witness viewed book.)

No, they would be on file in the Secretary of the Commonwealth's office. I don't have those in my possession.

MR. KOHN: That would be the same as he has.

BY CHAIRMAN TOMPKINS:

Q You have separate files in connection with these matters?

A We have separate files. Now those are mine. I do not have those in my possession. They are in the Secretary of the Commonwealth's office.

Q Will you bring in what you do have in your possession.

A For what purpose? What case do you want?

Q I do not know how many cases we want to inquire about.

A If I give it to you, then I have no way of referring to them. That is my only source of information.

Q We want them here so we can refer to them.

A I am not going to be here tomorrow. I have other duties to perform.

SENATOR YOSKO: Bring up your book of records.

THE WITNESS: I have twelve books of records, one for each month. I do not want to deliver—

SENATOR YOSKO: This is the first time we knew you had one for each month. Now how many do you want?

ATTORNEY GENERAL McBRIDE: September 1956.

CHAIRMAN TOMPKINS: We do not know what cases we will need.

THE WITNESS: Let me do this. I am not delivering those records to you at this point. I will be glad to bring in the brief page—and that is all I have—of the case that Mr. Kohn had last year, and let you see what it is and then I will be glad to deliver them later.

CHAIRMAN TOMPKINS: We asked you to bring those records in and, if necessary turn them over to the Attorney General so this committee can inspect them.

THE WITNESS: I will be glad to deliver them to the Attorney General.

BY REPRESENTATIVE BELL:

Q Why not to the board?

A This is the only record I have of the action I took. I am not delivering it to the board. I will be glad to deliver it to the Attorney General and you can look at them.

Q Why?

A Because I am not. I consider this a personal record.

CHAIRMAN TOMPKINS: It still has some bearing upon your decision.

THE WITNESS: Mr. Chairman, all it will show is how the four Members of the Board voted.

CHAIRMAN TOMPKINS: Very well, send them up to the Attorney General so we can look at them, all twelve of them.

THE WITNESS: I don't have twelve because we did not sit in July and August. I have ten.

CHAIRMAN TOMPKINS: Well whatever number there are.

General, how long will you be with this witness?

(Off the record at the instruction of Chairman Tompkins.)

(On the record at the instruction of Representative Bell.)

REPRESENTATIVE BELL: I requested those letters and a search of the notes of testimony at the third session, I believe it was, will indicate such.

REPRESENTATIVE LOPRESTI: Let's go back and look at the minutes. I am satisfied to go back and look at the minutes.

I take the position, I do not care who presents them, whether they are presented by our Counsel or presented by the Attorney General, they are still the same facts and I don't think we have any right to limit them from the Pardons Board.

ATTORNEY GENERAL McBRIDE: If one side does present evidence, the other side ought to be allowed to or else what is the use of saying this is our day?

CHAIRMAN TOMPKINS: The committee had asked for these records.

SENATOR YOSKO: All right, now they have the records so let's make them a part of the record.

ATTORNEY GENERAL McBRIDE: This is a letter dated March 19, 1957 to Mr. Hean, in which certain information was requested as to Erie County, the Mollica case, the McSorley case, the DeVito case and then it closes as follows:

"I also call to your attention, during your testimony you indicated there were other cases in which members of Congress or Legislators asked special consideration of cases for special listing, etc. You stated you would be glad to furnish any of these cases to Counsel. I would appreciate your doing so as soon as possible."

Now the only request that was made to Mr. Hean was as to letters that were sent to him, the Secretary of the Board of Pardons, and not as to records in the files of the Board of Pardons as to past Boards.

I made a separate investigation and we uncovered about sixteen very interesting, some of them fascinating reading, and we would like the pleasure of just showing you that the Congressman Barrett thing does not stand alone.

CHAIRMAN TOMPKINS: We appreciate that fact, General, but by the same token we had requested information for this committee which information was not furnished to us in due course that we could look at these cases and familiarize ourselves with them as well.

SENATOR YOSKO: Mr. Chiarman, that is not the request and if you say I am wrong, then perhaps we will have to take Mr. Lopresti's suggestion and read the minutes but while Mr. Hean was testifying, the question of other letters similar to the one that was written by Congressman—who was it?

ATTORNEY GENERAL McBRIDE: Barrett.

SENATOR YOSKO: Came up and I think Mr. Bell requested that Mr. Hean present those letters to the committee. Now if the letters are here, there should be no objection on the part of any Members of the Board to make them a part of the record because if it does, it just corroborates what I said a little while ago; people are of the opinion that only cases involving the present Pardons Board are under investigation, and that there is no intention of going into cases under previous Pardons Board.

Now if the letters are here, I think we ought to accept them for what they are worth, just as we accepted every other letter and all other testimony for what it was worth.

CHAIRMAN TOMPKINS: I have no objection to the letters being brought in, but I do resent that when this committee makes a formal request for information that it is withheld, to be presented to this committee only as, if and when the Attorney General thinks he is going to do it.

ATTORNEY GENERAL McBRIDE: You can resent that. I don't think you ought to use such strong language. It doesn't really terrify anybody, but at the same time I respectfully suggest to you that the Attorney General is not defying this committee. The Attorney General is presenting this evidence because he has made an independent investigation. I became fully satisfied that the committee counsel had no intention of presenting this matter before the committee.

CHAIRMAN TOMPKINS: If the information was—

ATTORNEY GENERAL McBRIDE: May I finish? He has a staff up there investigating himself. Has he done through 1950, 1951, 1952, 1953?

CHAIRMAN TOMPKINS: Just a minute—

ATTORNEY GENERAL McBRIDE: We haven't presented any of the sixteen that we have gotten in the last few days.

CHAIRMAN TOMPKINS: We asked for that information which has not been turned over to us.

ATTORNEY GENERAL McBRIDE: This is the first opportunity we have had, and you can rule any way you want to on it. It has been suggested—you have the majority, use your power if you will, but you said this was our day.

CHAIRMAN TOMPKINS: I am not going to block your introduction, but I am stating that this committee requested that information to be turned over to us in order that we could check these records ourselves, and we have not had that information turned over to this committee and we have had to wait upon the pleasure of the Attorney General in order to be able to get it instead of having it furnished to us as we believe it should be in the due course of such an investigation.

ATTORNEY GENERAL McBRIDE: It simply isn't so.

REPRESENTATIVE BELL: May I have the floor? On page 767 of the printed testimony, Mr. Attorney General, and you have said that I did not make this request:

"REPRESENTATIVE BELL: Mr. Chairman, I would like to suggest that the secretary turn over to our counsel the names of the Congressmen, and names of the cases in which he has been contacted. I think that is within the scope of this investigation.

"THE WITNESS: Yes, but I can't do it in a few hours. Will you permit me to look over a year and a half to pick out letters from the Congressman? It will take a little time.

"REPRESENTATIVE LOPRESTI: If we are going for a year and a half let's go over five years to see if there are letters from Congressmen in the files. In five years we can probably find a lot of letters."

Now, sir, I don't know whether that technically constitutes a demand like some of our technical distinctions today but to me, a plain country attorney, it does constitute a request.

ATTORNEY GENERAL McBRIDE: I am undyingly

grateful Mr. Bell, because as you have read it, it says, "Mr. Chairman, I would like to suggest that the Secretary turn over to our counsel the names of the Congressmen, and names of the cases in which he has been contacted," showing clearly that what you were asking for are the cases in which Mr. Hean was contacted, and Mr. Lopresti made the point that what we ought to get is the whole thing but you didn't ask for that.

Now we went ahead and got you the information. You have the power I say. You can vote not to receive it if you want to, but Mr. Hean answered your query.

CHAIRMAN TOMPKINS: We are going into a lot of technical quibbling. It is unfortunate that when this committee requests information, that we have so much difficulty in obtaining it.

REPRESENTATIVE BELL: Mr. McBride, when did Mr. Hean answer my inquiry? The answer of co-counsel for the Pardons Board is not answering my inquiry, is it, sir?

ATTORNEY GENERAL McBRIDE: I am putting this witness on not in answer to your request, but your request I thought went only to the question of what persons contacted Mr. Hean. Since this is what was known as our day, I thought that we were allowed to show what we could show in answer to the evidence up-to-date, and we wanted to show that what happened in the other five years, which you didn't request and which Mr. Lopresti took the position should be asked for.

CHAIRMAN TOMPKINS: Well, General, it has been my understanding—if I am wrong, I am subject to correction—that we were going to try and clean up the Erie County cases today in so far as your witnesses were concerned, and that then we were going to go into the Delaware County cases. Now I have no objection to this information being brought into the record, but if this witness is going to take two hours, we are not going to start with him tonight. It is now 10:30, and we want to convene again here tomorrow morning at 9:30, but I do wish, and I make a request now, that the names of these cases be turned over to our counsel and that our counsel be given the privilege of examining these records prior to the time of their presentation.

REPRESENTATIVE LOPRESTI: I object to any censorship by our counsel of anything that the department or the Pardons Board wants to submit to this committee. If everything that the Pardons Board wants to submit must first pass the censorship of our counsel, then I think we are heading for what we termed awhile ago as an inquisition.

CHAIRMAN TOMPKINS: All we want is information for the benefit of this committee. We are not trying to block it.

REPRESENTATIVE LOPRESTI: We are ready to receive it now then.

ATTORNEY GENERAL McBRIDE: Can't we read from them and then Mr. Kohn will be entitled to fully cross-examine?

MR. KOHN: I can't cross-examine on something I haven't seen.

ATTORNEY GENERAL McBRIDE: Mr. Kohn, your people have had all these files; they have had them for years.

SENATOR YOSKO: Mr. Chairman, we are here to get information, and it doesn't make any difference who submits the information. I don't care who it is, whether it is Mr. Kohn or the Attorney General or whether it is the Pardons Board or whether it is people from the outside, and I agree with Mr. Lopresti that it is improper for people who come here to be compelled to turn over the information to counsel and then decide whether or not it is to be made a part of the record. If this information is to be helpful, let—

MR. KOHN: Wait a minute, Mr. Yosko, let's not get things misstated. I think Mr. Tompkins stated that all of this will go in if Mr. McBride wants to present it or we want to present it. I want an opportunity to be able to examine the records which I have asked for by letter and which Mr. Bell has asked for by the testimony, so that I can intelligently serve this committee by asking the proper questions that I think are relevant in that case. I cannot anymore answer the questions than Mr. Furman could answer them if he had never seen the file, and I cannot blame him because he has handled a great many cases, and if you don't want me to see these files then and bring out any facts in the case which may be just as relevant as what the Attorney General wants to bring out—

SENATOR YOSKO: These are merely a group of letters and after the letters are introduced and become a part of the record, you can from there on scrutinize and examine the cases to which they belong and if merited and the committee so decides, we can list it for a public hearing, but I see nothing wrong in the Attorney General or anybody else supplying information to this committee for the record.

CHAIRMAN TOMPKINS: I don't either but I want to know why our counsel is continually being denied information which he is requesting.

ATTORNEY GENERAL McBRIDE: He isn't.

REPRESENTATIVE BELL: Mr. Chairman, I want to clear up one matter. There has been the word "censorship" brought up here tonight by one of the members of the committee. There has been an implication—

REPRESENTATIVE LOPRESTI: I stand by it, too.

REPRESENTATIVE BELL: There has been an implication of censorship by the Attorney General, too, that those words come from the Attorney General and from one of the minority members of this committee, and from tonight's hearing it is very clear that you can't censor the minority members of this committee.

REPRESENTATIVE LOPRESTI: That is for sure.

REPRESENTATIVE BELL: Now we are lacking here tonight two of our members of this committee. The reason they are not here is because they understood we were going to be on the Erie cases, and I think they have the right to hear all this testimony and I think that it is not fair to the two absent members of this committee to proceed into new matters without their knowledge and, therefore, Mr. Chairman, in view of the hour, I move that this committee adjourn until tomorrow morning.

REPRESENTATIVE LOPRESTI: This is another form of censorship. If you want to apply it, we can do it.

MR. KOHN: I don't want to get into this, but it seems to me that Mr. Yosko's position is that any cases they want to present, it is all right with him without us knowing about it.

SENATOR YOSKO: Now wait a minute. These aren't cases, Mr. Kohn. Were you given these cases?

MR. KOHN: No sir.

SENATOR YOSKO: These are letters that were requested and became a part of the controversy during one of these hearings. The letters are now available. You can list those cases for hearing if you want to. The subject matter of the letters could be on the record and could be transcribed, and I can get a copy of my transcription and I can read them, and the same thing applies to every member.

CHAIRMAN TOMPKINS: Here is a letter of March 19, directed to Mr. Hean asking for this very information for the use of this committee.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, in all fairness, that is restricted, as Mr. Bell's statement was restricted, to letters sent to Mr. Hean.

MR. KOHN: That is a foolish interpretation.

ATTORNEY GENERAL McBRIDE: I thought you meant something other than you said.

MR. KOHN: That is absolutely correct.

ATTORNEY GENERAL McBRIDE: Say what you mean and mean what you say. We took you at your word. Mr. Bell, you stated that what you wanted was copies of letters sent to Mr. Hean, people who contacted him.

MR BELL: I haven't gotten them yet.

ATTORNEY GENERAL McBRIDE: I don't know that there are any, but independently of them these are letters sent to other Pardons Boards, very interesting ones.

SENATOR POSKO: You see, if we confine those letters to those sent to Mr. Hean, they would be applicable only to the present Pardons Board but we are interested in all letters from January 1950 up to the present time and if such letters are available, I think they ought to be made a part of the record.

CHAIRMAN TOMPKINS: We are only debating the question on this issue. This committee and its counsel have constantly run into difficulty in obtaining information and when we wind up at a point where the Attorney General, who has taken the position as counsel for the defense in these proceedings, is going to determine when and where this committee can operate, then I say the Attorney General has taken a wrong position and a position contrary to the duties which were assigned to this committee.

I am perfectly willing to let all records go in that he has. We are not trying to block anything out, but I do wish that in the future when our counsel requests information or the members of this committee request information, that it would be produced and presented to us when we ask for it or as soon as it is available instead of having to wait on the pleasure of the Attorney General to present it as, if and when he sees fit.

REPRESENTATIVE BELL: Mr. Chairman, I say the other two members of this committee, the two Senators, have a right to be here to hear the testimony.

ATTORNEY GENERAL McBRIDE: Those kind of imflammatory statements tend to prove exactly what Mr. Harner stated. He indicated that this was politically inspired, and now you are making a personal attack upon me. Why don't you just run this thing on a higher level instead of constantly trying to make me or someone else the target of ill temper? You would get further, certainly.

CHAIRMAN TOMPKINS: I have served on Legislative Committees before—

ATTORNEY GENERAL McBRIDE: I never served on one like this.

CHAIRMAN TOMPKINS: And when we asked for information, we have obtained it.

REPRESENTATIVE BELL: Maybe it wasn't bad like this.

CHAIRMAN TOMPKINS: Inasmuch as the Attorney General has stated that this witness will take two hours, we do not propose to run a midnight sesion. We are not going to close these meetings tonight because of the absence of the other two Senators nor for the purpose of trying to block any information because what the Attorney General has for this witness, we will hear but we are not going to hear it at this hour tonight.

REPRESENTATIVE LOPRESTI: When, Mr. Chairman, will we hear it?

CHAIRMAN TOMPKINS: The Attorney General didn't tell us that he was going to bring this information at this time and we had scheduled our hearing, our program, based upon the fact that we would clean up what witnesses he had in connection with the Erie County cases today.

SENATOR YOSKO: Mr. Chairman, I just can't imagine why, all of a sudden, you would object to the admission of these letters in evidence and that they be made a part of the record. You know, I hate to say this but if these letters were on Democratic stationery or written by Democratic Congressmen, I don't believe there would be that much objection to them going into the record. I don't know who they are from.

CHAIRMAN TOMPKINS: At this hour of the night, I would object to it, Senator.

REPRESENTATIVE LOPRESTI: Mr. Chairman, I have asked a question.

SENATOR YOSKO: It's only 10:00 o'clock; I missed the fight and everything anyway.

REPRESENTATIVE BELL: You have been in a good fight, Senator.

Mr. Chairman, I renew my request that we now adjourn until 10:00 o'clock.

REPRESENTATIVE LOPRESTI: Well I am going to stay here until I say this if I have to listen to myself say it.

REPRESENTATIVE BELL: I will yield to Mr. Lopresti.

REPRESENTATIVE LOPRESTI: We have once before set a time for when the Attorney General could present his case. Then we changed that schedule. We have now allowed him to put in part and then interrupted it, and I believe that if it is the intention of this committee to resort to a fixed schedule, it will not be continued—the Attorney General's part of this inquiry—for possibly some weeks. I think that in view of the fact that we were gone the biggest part of the day on other House business which kept us away and in view of the further fact that we have had some hassles which have taken up the time of the Attorney General, I believe that we should continue on tomorrow where we left off tonight and let the rest of the gentlemen wait.

CHAIRMAN TOMPKINS: Would there be any particular harm in following through with our schedule tomorrow and scheduling then the balance of the Attorney General for next Monday morning?

ATTORNEY GENERAL McBRIDE: It is just as important to follow through with our schedule today. Usually Thursday's business follows upon Wednesday.

CHAIRMAN TOMPKINS: What other witnesses beside this one do you have?

ATTORNEY GENERAL McBRIDE: Probably Secretary Finnegan.

SENATOR YOSKO: There is no reason to quit now. It's just the newspapermen who are saying quit.

CHAIRMAN TOMPKINS: I do not want to impose upon myself and be here at 9:30 in the morning nor am I going to impose upon the Attorney General at the present time to stay here until the wee small hours of the morning on this situation. I feel that we should terminate it tonight.

You have your Delaware County people, that they can come in on Monday?

MR. KOHN: Well, I don't know. If I can get hold of them tonight—

ATTORNEY GENERAL McBRIDE: Will they take the whole day?

MR. KOHN: It may not.

CHAIRMAN TOMPKINS: We will try to get it in.

ATTORNEY GENERAL McBRIDE: Suppose we offered to finish tomorrow morning and you finished with the Delaware County poeple tomorrow afternoon?

REPRESENTATIVE BELL: The members of the press have some kind of an engagement tomorrow afternoon or am I spilling the beans?

ATTORNEY GENERAL McBRIDE: They are my most dearly beloved friends, but certainly the committee can function with or without the press. I think I would be the first to say this isn't a public spectacle. We are, as you say—

REPRESENTATIVE BELL: I absolutely agree with you, Mr. Attorney General. Of course, if the Governor doesn't want to have a press conference—

ATTORNEY GENERAL McBRIDE: I have no position. The press feels they ought not have any bearing upon this.

CHAIRMAN TOMPKINS: Could we take this witness the first thing tomorrow morning, because Secretary Finnegan and the other witnesses are all present here daily anyhow and do not have to come in here from distances, and defer this until Mnoday?

ATTORNEY GENERAL McBRIDE: I don't see any reason why we can't.

CHAIRMAN TOMPKINS: We are not trying to block out you gentlemen.

ATTORNEY GENERAL McBRIDE: Now we will start off with Mr. Wright in the morning and at any time that it looks as though it is going too far or taking too long that it will interfere with the presentation of the Delaware County cases, why we will make some other agreement that is suitable to the committee's pleasure.

CHAIRMAN TOMPKINS: Secretary Finnegan can be called at anytime.

REPRESENTATIVE BELL: Be sure you don't lose those letters between now and then.

SENATOR YOSKO: Do I understand then that if we quit tonight until tomorrow morning, we will start with Mr. Wright?

ATTORNEY GENERAL McBRIDE: At 9:30.

CHAIRMAN TOMPKINS: And then after Mr. Wright is done, then defer the others until the Delaware County cases are in.

ATTORNEY GENERAL McBRIDE: Any new Delaware County cases that haven't been gone over.

MR. KOHN: I am satisfied to start with Mr. Wright, but let's get it straight how many cases you have.

ATTORNEY GENERAL McBRIDE: Sixteen, but they are—I am sure you will find that it doesn't take long with each one of them.

MR. KOHN: I am sure you will find cross-examination takes a long time. I will have to familiarize myself with each case and cross-examine as each case goes along.

CHAIRMAN TOMPKINS: Couldn't we do this? I think it would be more proper, perhaps, to take up on Monday the witnesses who are here every day because of the people coming from the outside. I want it thoroughly understood, though, that we are not trying to block anybody.

ATTORNEY GENERAL McBRIDE: That is one of the difficulties.

(At 10:15 p.m., the hearing was adjourned until 9:30 a.m., Thursday, March 28, 1957.)

* * * * *

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing on the above cause before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and that this copy is a correct transcript of the same.

PATRICIA L. SAYER.

Reported by:

Miss Patricia L. Sayer
1625 Green Street
Harrisburg, Pennsylvania

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

at Harrisburg, Pennsylvania
Date March 28, 1957

VOLUME VII

PATRICIA L. SAYER
P. O. Box 496
Harrisburg, Penna.
CEdar 2-2832

INDEX

Committee's Witnesses	Direct	Cross	Re-direct	Recross
Frank R. Hean ..... (Recalled)			1251	
James K. Arnold	1255	1264		

BOARD'S WITNESS

Victor Wright 1273 1282 1288 1289
1292 1293
1300 1306
1310 1311
1322 1323
1323 1325
1328 1329
1329 1332

COMMITTEE'S WITNESSES

J. Harold Hughes 1354 1359 1359 1381
1381 1381
1382 1386
1399 1402
1405

Charles F. G. Smith ... 1413 1442 1443 1445
1446 1452
1455 1455

EXHIBITS

Committee	Identified and Received
Exhibit No. 28—Letter from Judge Harold L. Ervin, dated March 6, 1957	1365
Exhibit No. 29—Letter from Joseph S. Clark, Jr., dated January 27, 1955	1414

BEFORE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 9:30 a. m., Thursday,

March 28, 1957

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.

Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

VICTOR H. WRIGHT, ESQUIRE, Deputy Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel).

JAMES K. ARNOLD. ESQUIRE, 2109 Market Street, Camp Hill, Pennsylvania
For—Committee (Assisting Counsel).

CHAIRMAN TOMPKINS: Last night, when we recessed, we agreed that we would hear Mr. Wright this morning. Before we put Mr. Wright on the stand, there are a couple of matters relating to yesterday's inquiry we would like to finish up, which will take a matter of some ten or fifteen minutes to do so. Inasmuch as they relate to testimony which was presented here yesterday we would like to take it up first. What Mr. Wright has is something that has no relation to the testimony, as I understand it, that was put in here yesterday.

COMMITTEE'S EVIDENCE

FRANK R. HEAN, recalled on

FURTHER REDIRECT EXAMINATION

REPRESENTATIVE BELL: Mr. Hean, will you take the stand sir.

BY REPRESENTATIVE BELL:

Q Mr. Hean, were you present during all of the proceedings of yesterday?

A I was.

Q Did you hear Governor Furman testify as to certain commutations and pardons that were granted during 1955 and 1956?

A I listened to his testimony.

Q Were those facts prepared by you or under your supervision?

A Under my supervision and some of them personally.

Q I call your attention to a press release—I hand it to you—which apparently came from the Attorney General's Office and that was carried by AP Wire and it is dated—was it March 18?

A That is right, March 18.

Q Now, I will also hand you your figures. Would you tell the Committee whether or not those figures that are reported in that AP press release are the same for the total number of pardons and commutations granted in 1955 and 1956 as your report?

A Nineteen hundred fifty-five has 978; this report shows 978.

Q How many were granted in 1955?

A Two hundred five.

Q Both those reports coincide?

A Yes. Nineteen hundred fifty-six shows 1,067.

Q Cases heard?

A Cases heard. Applications granted, 137 which corresponds with this.

Q In your preparation of the figures—I believe you

testified that you prepared or caused to be prepared those figures?

A That is right.

Q In your preparation or supervision of the preparation of those figures, did you have close enough supervision so you can testify here that they are true and correct?

A I would say that as far as it is humanly possible I made a true and accurate computation. There may be errors, but they were of the mind and not of the heart.

Q Do these figures include all the pardons and commutations granted in 1955 and 1956?

A That was my intention to so prepare that statement, sir.

Q And do these figures reflect all of the pardons and commutations granted in 1955 and 1956?

A I so believe they reflect.

ATTORNEY GENERAL McBRIDE: They start with February. There is no January.

THE WITNESS. He understands that.

BY REPRESENTATIVE BELL:

Q Now, Mr. Hean, are you familiar with a file of commutations and pardons that presently is in the custody of the Chief Clerk of the House of Representatives, submitted by the Governor, I believe?

A Yes, for the years—

Q I will just say 1955 and 1956.

A Yes. I know they are handed to the Chief Clerk of both Houses.

Q Do you know who hands that file to the Chief Clerk of both Houses?

A I have done it technically as the agent for Mr. Heagy, the executive administrator of the Governor's Office.

Q Did you hand to the Chief Clerk of the House of Representatives a carbon copy of each pardon and commutation granted in 1955 and 1956?

A Not personally, but I had it caused to be done.

Q You caused it. And such a file would be a true and correct file?

A It should be. It was the action of the Board.

Q Did you prepare the file?

A I cannot recall that I did. We had photostatic copies made and they are the ones that are handed into the respective Clerks of the two Houses.

Q And would that file reflect the true and correct figures and facts with respect to pardons and commutations?

A It should so reflect it.

Q That is the report that is given to the General Assembly of Pennsylvania?

A That is correct.

REPRESENTATIVE BELL: That is all, Mr. Hean.

THE WITNESS: Now, you asked me for some information the other day. I have it here in response to your—

REPRESENTATIVE BELL: Sir, I do not want to go into that now.

THE WITNESS: I have it here in response to your request.

REPRESENTATIVE BELL: Thank you, sir.

REPRESENTATIVE BELL: Mr. Arnold, take the stand, please.

JAMES K. ARNOLD, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE BELL:

Q Mr. Arnold, will you give your full name to the recorder.

A James K. Arnold.

Q Mr. Arnold, are you of counsel for this Pardons Board investigating committee?

A Yes, sir.

Q Mr. Arnold, in response to my request yesterday, did you make a thorough examination of a file of pardons and commutations which is in the custody of the Chief Clerk of the House of Representatives of the State of Pennsylvania?

A Yes, I did.

Q Now, Mr. Arnold, did you count the number of pardons and commutations that are in this file?

A Yes, sir; that is right.

Q Mr. Arnold, for the year 1955, how many pardons and commutations are represented by carbon copies of the actual pardons and commutations that are on file in the Office of the Chief Clerk of the House of Representatives?

A Well, by counting the carbon copies for commutation of maximum and minimum pardons and reduction of death to life sentences, there are 310 in there, which is roughly thirty-four per cent error in the figures given yesterday.

Q I show you the Board of Pardons Exhibit 23 for the year 1955. Will you read into the record the number of pardons and commutations granted as shown by this exhibit for 1955.

A For the year 1955, total granted, 205.

Q And how many did you count?

A I counted 310.

Q Now, Mr. Arnold, at my request did you also count those commutations and pardons; that is, the carbon copies of the same, that are in the custody of the Chief Clerk of the House of Representatives for the period January through November of 1956?

A Yes, that is right. December has not been filed as yet.

Q How many carbon copies of pardons and commutations are there for the eleven months of 1956?

A I count 270.

BY ATTORNEY GENERAL McBRIDE:

Q Two hundred seventy?

A Two hundred seventy, General.

BY REPRESENTATIVE BELL:

Q Now, Mr. Arnold, will you refer again to the Board of Pardons exhibit, and tell this investigating committee how many are reported therein?

A For the year 1956, and I might add this includes December which my figures do not reflect, there are 137.

Q In other words, your figures reflect a total of 580 cases for which there are actual carbon copies of the commutations or pardons for the year 1955 and for the first eleven months of the year 1956. Is that correct?

A That is correct.

Q Were you present yesterday in this hearing when the Lieutenant Governor testified that during the month of December, 1956, there were ten additional commutations and pardons granted?

A I was; yes.

Q I would be correct then in stating that during the years 1955 and 1956 there were a total of 590 pardons and commutations granted, according to the records as found in the Office of the Chief Clerk of the House of Representatives and according to Governor Furman's testimony with respect to December, 1956?

A That is right. Five hundred eighty plus the ten in December.

Q Now you added the figures 205 and 137. Will you give the committee the total that the Board of Pardons, through its President, Governor Furman, and, apparently, through the Attorney General's Office, has released to the press? Will you give the totals that the Board of Pardons has reported?

A Well, the 205 for 1955 and the 137 for 1956, totals 342.

Q Therefore, there is a discrepancy in the Board of Pardons figures, as between those released by the press and the testimony yesterday and the actual carbon copies of the commutations and pardons submitted to the General Assembly of a difference between 342 and 590?

A That is right.

REPRESENTATIVE BELL: That is all.

Mr. Chairman, I caused Mr. Arnold to make this examination yesterday because I think that the people of Pennsylvania should know that we, as an investigating committee, are not getting all of the facts.

REPRESENTATIVE LOPRESTI: Suppose you wait until we get all the facts before you make those statements.

BY SENATOR YOSKO:

Q This will only take a minute. I want to ask you a few questions, my friend. I am not implying now that all of the records that were taken to the Chief Clerk's Office were not turned over to you, but whatever you counted in the Chief Clerk's Office was what was turned over to you. Is that right?

A I do not understand. Turned over to me by the Clerk?

Q Yes.

A Yes; that is right.

Q You do not know whether what was turned over to you in totals was actually what Mr. Hean turned over to the Chief Clerk, do you?

A Oh, no, sir.

SENATOR YOSKO: All right. Then what I would suggest is that if there is an extra copy of the cases that were delivered to the Chief Clerk that they be checked against the files of the Pardons Board to determine whether there is a full set on file with the Chief Clerk that was turned over to you. After that determination is made, then we can decide whether or not this discrepancy is correct or incorrect.

CHAIRMAN TOMPKINS: Well, sir, did your Chief Clerk tell you those were the official records submitted to the General Assembly for incorporation in the Legislative Journal?

THE WITNESS: That is right. These are kept in a safe and the custodian, a man by the name of Hottenstein, Frank Hottenstein, stated substantially that those are the carbon copies which have been turned over to them.

REPRESENTATIVE LOPRESTI: Mr. Chairman, I would like to have, if possible, the records brought into the committee room so that we can find out the method of computation used by Mr. Arnold and, likewise, the method of computation used by the Secretary of the Board. Now you might be counting half peanuts and the other fellow might be counting whole peanuts. I do not know, but I am going to find out.

REPRESENTATIVE BELL: Mr. Lopresti, the peanuts I am counting are the peanuts contained in the—

REPRESENTATIVE LOPRESTI: I say, I want to find out how they are being counted, either in halves or in whole; that is all.

SENATOR YOSKO: I do not know whether what he counted was everything that was taken down to the Chief Clerk either.

REPRESENTATIVE BELL: Well, if it is found out there are more, it will make it even worse.

SENATOR YOSKO: Well, I do not care whether it is more or less. I just want to double check on it.

REPRESENTATIVE BELL: To double check, may I suggest that if you want, you can bring in the records from the Chief Clerk of the Senate.

SENATOR YOSKO: All right, and let the Secretary of the Pardons Board bring down a duplicate of what he says he took into the Chief Clerk, and if you check the one against the other you will find whether or not there are any discrepanies.

REPRESENTATIVE LOPRESTI: Let us find out what—

CHAIRMAN TOMPKINS: The matter remains that these are official records submitted to the General Assembly of the Commonwealth of Pennsylvania, so you certainly ought to be able to rely upon what they submit as official records.

REPRESENTATIVE LOPRESTI: The question I would like to determine is how the computation is made. I am not questioning those records. I am not questioning them at all, but let us bring them in here and find out how he counted them and then how Mr. Hean counted them. There may be some explanation for the difference in figures which may be to the Board's benefit or perhaps to the Board's detriment; I do not know which.

REPRESENTATIVE BELL: Mr. Lopresti, I know you as a fair man, and I know Mr. Yosko is a fair man. It is a pleasure to serve with you on this committee, but to me, when figures are released saying this is a total of the pardons and commutations, and then I was blundering around myself over in the Chief Clerk's Office looking through some of these files, and it did not strike me as being a correct figure. I think that is an attempt to mislead the public.

REPRESENTATIVE LOPRESTI: Now wait, Mr. Bell, before you make your statement, let us check first.

REPRESENTATIVE BELL: I am willing to stand on a double check.

REPRESENTATIVE LOPRESTI: That is right. The point I am making is that before you make those statements, let us find out. The statements may be to the detriment of this Board. If they are, I will be the first one to criticize the man who prepared them.

REPRESENTATIVE BELL: I did not know any better way to find out than to count them.

REPRESENTATIVE LOPRESTI: Like I say, we cannot definitely settle this, so let us find out why.

REPRESENTATIVE BELL: I counted them also.

MR. KOHN: Mr. Chairman, may I suggest that Mr. Hean advise us how he prepared his count.

CHAIRMAN TOMPKINS: Let us check it.

REPRESENTATIVE LOPRESTI: That is right. Let us find out why there is a discrepancy.

MR. KOHN: What's that?

REPRESENTATIVE LOPRESTI: Let us find out why there is this discrepancy.

REPRESENTATIVE BELL: That is all I had, sir.

ATTORNEY GENERAL McBRIDE: Before this witness goes, I have some questions I would like to ask.

CROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q What time did you go to the Chief Clerk's Office?

A Roughly, twenty minutes to ten in the morning.

Q How long did you spend there?

A I would say approximately twenty-five minutes.

Q What did you ask for?

A I did not ask for anything. I went in with Representative Bell.

Q What did he ask for in your presence, if anything?

A The carbon copies of the commutations and favorable recommendations for commutation of pardons on file of the Pardons Board.

Q Now, did you check them and make a total for each month?

A I did for 1955. I did halfway through 1956. I could not complete it because the hearing began here.

Q Did you check them by name?

A I do not understand that, sir.

Q Did you check the warrants or charters by name to see who the people were who were commuted?

A The checking I did was on the carbon copies of the recommendations from the Board.

Q Did you make a list of the names?

A No, sir; I did not.

Q Did you make a list of the Session of the Pardons Board at which the commutation was granted?

A The Session in relation to the month?

Q Whether it was March, 1955?

A Yes, for 1955, I did; yes, sir.

Q For 1955. You checked each warrant to see if it was granted in March, or April, or May, 1955?

A No, sir. I checked by determining the Session listed on the recommendation and counting each particular warrant or recommendation. For example, March Session of 1955, and making sure it was a favorable recommendation for the maximum, minimum or what have you.

Q Were these all in a folder?

A They were; yes.

Q Were they marked 1955 and 1956?

A Not to my recollection. There was no marking in the folder at all.

Q Did you separate them out; one group for 1955 and one group for 1956?

A Do you mean by separating in piles or counting separately? I did not arrange them in any sense. I counted one by one and kept a tally record.

Q Were they in order by months?

A Yes, they were.

Q Did you go over 1954?

A No, sir.

Q Did you go over 1953?

A No, sir; I did not. The only records on file in there, at least the ones I was given, were for 1955 and 1956 up to December.

Q At Mr. Bell's request?

A That is right.

Q Mr. Bell made no request for you to get records for 1954 or 1953; did he?

A To my knowledge, no, sir.

Q Now, for the second half of 1956, there was no check by you as to names or Sessions. Is that correct?

A For the second half, sir?

Q Of 1956.

A No check by me of the names or Sessions? Well, I did it exactly the same from February, 1955, to November, 1956, as I described.

Q I thought you said you did it for 1955 and half of 1956.

A Oh, I see what you mean. That is correct. I did it for the last half of 1956 and, because of the time element, I did not count the remaining recommendations in the file.

Q Are you able to say there are no duplications where two charters may have applied to one man?

A I have not checked for that.

Q Are you able to say whether there was more than one case involved in any one charter or warrant?

A Are you referring to the recommendations whereby the Board may recommend a commutation of a maximum and a minimum in one charter?

Q No. I am referring to a case of a man who might ask for a pardon on three separate bills of indictment.

A If those were all on three separate recommendations, no, sir; I have not checked for that. A numerical count is basically what I did.

Q The numerical count of the number of papers which you call carbon copies. Are they, as a matter of fact, carbon copies or photostatic copies?

A I would not be able to say.

Q You would not?

A No, sir.

Q Didn't you handle them personally?

A Yes. and they could be either. I am not sure what they were.

Q You do know the difference between a carbon copy and a photostatic copy?

A Yes, sir.

Q Well then, which were these?

A I am not sure which they were.

Q How long did you say you made this check?

A I would estimate around twenty-five minutes; twenty to twenty-five minutes.

Q Was there anybody there with you when you checked them?

A The personnel in the office, the Clerk's Office.

Q How many?

A I do not know.

ATTORNEY GENERAL McBRIDE: Do I understand,

Mr. Chairman, that they will be brought in for the inspection of the Committee and that they will be checked here for accuracy?

CHAIRMAN TOMPKINS: Oh yes, by all means.

REPRESENTATIVE BELL: I would like to ask Mr. McBride a question, if I may, sir.

When one prisoner is in front of the Pardons Board who may have been convicted on several counts, is there a separate commutation filed for each count or conviction or charge or whatever it would be?

ATTORNEY GENERAL McBRIDE: It would more properly occur in the case of a pardon where a man, fearing deportation or some other governmental action, has two or three convictions and would ask for a pardon on two out of the three in order to place himself within the rule that he does not have two convictions. I do not know that that has any application to this situation. I would have to look at it when the papers are brought in.

REPRESENTATIVE BELL: Would the individual man bear two different numbers, file numbers, that are found on the form?

ATTORNEY GENERAL McBRIDE: He might or might not.

MR. KOHN: That is the application number, is it not?

ATTORNEY GENERAL McBRIDE: What did you say?

MR. KOHN: It would bear the application number?

REPRESENTATIVE BELL: That is what I mean; the number, the application number.

ATTORNEY GENERAL McBRIDE: Yes.

REPRESENTATIVE BELL: It would be one of those; would it not?

ATTORNEY GENERAL McBRIDE: I think that the warrant would simply tell, not the application number, but the time at which favorable action was taken and the date of recommendation to the Governor and the date on which the Governor approved or disapproved it.

MR. KOHN: I do not want to interfere with the testimony, but I would like to correct my assistant so that you can understand. You were talking about warrants. He is talking about copies of the recommendations of the Board of Pardons. The warrants are not on file that I have seen in the office.

REPRESENTATIVE BELL: It is the Reasons for the pardons.

MR. KOHN: The Reasons? You have been talking about warrants.

ATTORNEY GENERAL McBRIDE: I have been talking about either a charter or a pardon.

MR. KOHN: That's right.

ATTORNEY GENERAL McBRIDE: You are talking about the recommendations to the Governor.

MR. KOHN: I am talking about the copies found in the files in each case; the recommendations of the Board signed by—

ATTORNEY GENERAL McBRIDE: We will be able to see the whole picture when they are brought in.

CHAIRMAN TOMPKINS: They are official records which the law requires be submitted to the General Assembly?

ATTORNEY GENERAL McBRIDE: No doubt about it. There is a perfect check of this thing because these records up there can be checked against the books and minutes of the Board for the month of February, March, April, May and so forth, and you can have a perfect check and come out within one percentage point of error.

CHAIRMAN TOMPKINS: They should check out.

ATTORNEY GENERAL McBRIDE: Regardless of whose counting is right.

MR. KOHN: Can we get those right away?

CHAIRMAN TOMPKINS: The committee wants to see them when they get time to look at them.

MR. KOHN: Mr. Chairman, yesterday there was testimony given by the former Secretary of the Commonwealth in regard to a certain telephone call I made to him, which received due publicity, which I suppose it was supposed to receive. Mr. Harner stated that I did not ask him for a commitment; he did not give me any. I intend to take the stand when I finish my duties as counsel for this committee on that matter. I will say to you now that if I had it to do all over again, I would not hesitate to do what I did. I did not ask about procedure, either.

I did talk to Mr. Harner, and I will explain the circumstances later when given an opportunity to do it.

CHAIRMAN TOMPKINS: You will be given that opportunity, Mr. Kohn.

ATTORNEY GENERAL McBRIDE: Mr. Chairma, I would like to consider this a matter of personal privilege and have Mr. Kohn do it now if he wishes, rather than delay it.

MR. KOHN: I wish to wait for certain reasons, General. I have to check my files to find out when certain things happened; the phone call—

CHAIRMAN TOMPKINS: He is filing his intention of doing it.

BOARD'S EVIDENCE

VICTOR WRIGHT, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Wright, your full name is what?
A Victor Wright.
CHAIRMAN TOMPKINS: Victor?
THE WITNESS: Victor.
CHAIRMAN TOMPKINS: W-r-i-g-h-t?
THE WITNESS: Yes.

BY ATTORNEY GENERAL McBRIDE:

Q You are Deputy Attorney General?
A Yes.
Q In the office of the Attorney General?
A Department of Justice.
Q Formerly Assistant District Attorney in Philadelphia?
A Yes.
Q Mr. Wright, did you at my request, make a search of the records of the Board of Pardons to ascertain whether there were other cases in the files presenting somewhat of an analogous or similar situation as were presented in the testimony as to Congressman Barrett?
A At your direction, Mr. Attorney General, I caused that search to be made. I did not personally make it.

Q Have you the folders and have you reviewed the folders which contain the answers to the questions put to you?

A I have the folders and I have reviewed them to the extent of the request made of me. I have not thrououghly acquainted myself with the contents of the entire files. We will make the entire file available to anybody who wishes to see it.

Q Now, will you start with the first case and tell us the name of the case, the date of the Session at which it was heard, and the circumstances that make it in any way analogous to the Barrett matter?

A I do not have these cases in any chronological or any other particular order. They simply are stacked here as they happen to be stacked. I pick up first the case of Willard Hartill.

Q How do you spell it?

A H-a-r-t-i-l-l. The file number or application number is 7070, which was heard at the October Session of 1950.

BY SENATOR YOSKO:

Q What was the first name of that person?

A Willard.

Q How do you spell it?

A W-i-l-l-a-r-d.

Q Is that H-a-r-t-i-l-l-?

A That is correct.

His application was for a pardon. I am stating this merely from what I see in the folder. I have no personal knowledge of any of these cases. In the folder I find a letter dated October 14, 1950, on the stationary of one Mrs. John T. Butler, 2650 Perrysville Avenue, Pittsburgh 14.

Q How do you spell her last name?

A B-u-t-l-e-r. The letter, consisting of two pages, is signed Catherine Butler. The letter follows:

BY ATTORNEY GENERAL McBRIDE:

Q It is addressed to whom?

A Well, the salutation is "Dear 'Skip:' ". It has no envelope attached to it, and no other address.

"It was nice to talk to you this morning. I know how busy you are these days"—

MR. KOHN: Do we know who this is addressed to?

ATTORNEY GENERAL McBRIDE: Sure, to Skip Wymard.

BY MR. KOHN:

Q Does it say so on there?

A Later on there is an indication.

"I know how busy you are these days but the case of Willard Hartill is very important to me.

"As you know, I was born in the twenty-first ward, and lived there the early part of my life. I went to school down there and was acquainted with most of the families in the community. In those days, the twenty-first ward was so different from now. The young man about whom I spoke to you is the son of a very close friend of my family. I knew his Grandmother, who was a very fine woman, and who raised quite a large family of children. His Mother, Sara Clark Hartill, is one of that family. She was one time Republican Chairlady of that Ward. I have known the Clark family my entire life and have known Willard Hartill since he was born. They are an honorable, reputable family of great integrity. They are religious people and were very ardent church workers and God-fearing people.

"During the depression many things happened to many people. In the twenty-first ward, which is one of the lower North Side Wards, there just weren't any jobs. People who would never think of breaking the law were forced to do many things they wouldn't have done otherwise. Willard was sick and had an operation for Ulcers. This operation was costly and had to be paid for and I can only say that he was a victim of circumstances.

"Willard is employed at the Allegheny Elks No. 339, on Cedar Avenue. In this lodge there are over 2800 members and it is one of the places that I always count on to get votes. I know that in the past, they have helped us considerably at the Elks. I go there quite a lot and know most of the members. The steward there is a Republican and went to St Andrew's School with me and he is always helpful in an election. When he lived in the twenty-first ward he always carried his district, even when Roosevelt was a candidate, and I know how difficult this was. He now lives in the 27th Ward and helps us out there. He is most anxious to have Willard get this pardon and I enclosing the letter he wrote me about it. Almost all the members of Allegheny Elks are North Side people. They are scattered through the seven wards.

"I cannot impress upon you how important this pardon is to me and I know that you will do whatever you can in Willard's behalf. Willard has been working at Allegheny Elks since 1945 and his record there is very good.

"You are the one person in Harrisburg that I can depend upon and hope and pray that this pardon will be voted upon favorably Tuesday, October 17th. As I told you on the telephone, I would go down there if I could help in any way but feel that my presence is not necessary, after my conversation with you.

"I will be ever grateful to you 'Skip,' for your assistance and do not hestitate to call upon me at any time if I can reciprocate in any way.

"Best regards to Mrs. Wymard and you and my thanks for all you have done for me in the past and for what you are doing now.

"Very sincerely yors,

/s/ "Catherine Butler."

There is then a memorandum on a memorandum form of the Board addressed to Mr. Joseph Nissley, Secretary, Board of Pardons, from N. L. Wymard and initialed opposite the typed name, "N.L.W.," Secretary to the Governor.

"Attached hereto is a letter from Mrs. John T. Butler, 2650 Perrysville Avenue, Pittsburgh 14, Pennsylvania, in behalf of Willard Hartill, for the information and attention of the Board."

That memorandum is dated October 18, 1950.

BY ATTORNEY GENERAL McBRIDE:

Q With favorable action?

A There is one more correspondence here. There is a memorandum directed to Honorable N. L. Wymard, Secretary to the Governor, from Joseph Nissley, Secretary, Board of Pardons; Subject: Willard Hartill, application

for pardon. It is dated November 10, 1950, and it bears the following observation:

"P. J. Patterson: No comment.

"D. A.: No objection.

"Comment: Applicant has been in no further trouble for nearly the past ten years. Is employed by the Elks Lodge."

Q Was the application acted on favorably?

A It was.

Q At the hearing and on the date the lady suggested?

A Yes, that is correct.

Q Is there anything else in that file?

A Nothing pertinent to this.

MR. KOHN: I would like to question him on these as we go along.

ATTORNEY GENERAL McBRIDE: I think that would not follow our usual practice. We should go on and put them all in and have the one cross-examination at the same time. That is the way we did it before.

MR. KOHN: What is the expression of the committee? In my opinion, I do not think we did it that way before. In the previous cases he had proper cross-examination at the time I finished a case. Cross-examination will not take very long, if we can get it in. I know that the committee and myself forget what the original testimony was.

ATTORNEY GENERAL McBRIDE: Well when we had this kind of discussion before, Mr. Kohn took the position, and he was sustained by the Chair, that he should finish up all the cases in the particular county and so forth and then I had cross-examination. However, if it will help the committee to do it the way he wants to, I do not care.

MR. KOHN: The Committee can do it the way they want to.

REPRESENTATIVE BELL: Mr. McBride, will you be harmed if we have cross-examination on the different cases? I can just visualize sixteen cases in a horrible jumble.

ATTORNEY GENERAL McBRIDE: Well, I feel so good humored today after yesterday, I say I will not be harmed today.

MR. KOHN: I appreciate that, Mr. McBride. It will help me keep track while it is fresh in our minds.

BY ATTORNEY GENERAL McBRIDE:

Q Was there a woman by the name of Butler mentioned in there?

A Mrs. Butler, the writer of the letter.

CHAIRMAN TOMPKINS: Just a moment until we make a ruling on this. After conferring with the members of the committee, we feel we would like to hear the cross-examination at the end of each particular presentation.

ATTORNEY GENERAL McBRIDE: All right I just want to ask one question before it starts.

BY ATTORNEY GENERAL McBIDE:

Q Do you know if Mrs. Butler is the Republican State Committee Woman and Republican candidate for City Council this year?

A I have been so informed.

ATTORNEY GENERAL McBRIDE: That is all.

CHAIRMAN TOMPKINS: Did you say Republican candidate this year?

ATTORNEY GENERAL McBRIDE: For City Council this year.

CHAIRMAN TOMPKINS: Is that in the year in which this took place or not?

ATTORNEY GENERAL McBRIDE: No, this present year.

CHAIRMAN TOMPKINS: Oh, this present year, and this occurred in 1950?

ATTORNEY GENERAL McBRIDE: Yes.

CROSS-EXAMINATION

BY REPRESENTATIVE BELL:

Q Did Mrs. Butler have any political job in 1950?

A I have no personal knowledge whether she did or not.

BY MR. KOHN:

Q These indictments, according to the records, Mr. Wright, occurred in 1939, 1941 and 1938. Is that correct?

A I do not know. As I said, I have not—

Q Do you know whether or not there were two other applications for a pardon filed in 1944 and 1945? If you care to look at them—

(Witness was handed the file).

A Yes, there appears to be two other applications.

Q And this was finally granted in October Session 1950, with Smith, Margiotti, and Livengood approving and the Lieutenant Governor not sitting. Is that correct?

A That is right.

Q Now, have you gone over other Pardons Board cases in the Board of Pardons? Is there anything unusual about anybody writing a letter about a defendant who is requesting a pardon whether it be for the purpose of obtaining the right to stay within the United States or whether it is for a pardon for business purposes or selling of say, anything? Is there anything unusual about a person writing a letter in pardon cases?

A No, I think not.

Q Did you find many of them, in fact?

A As I said, I did not personally make this examination. I directed it and I gave instructions that only the cases which contained letters similar to that presented in the Barrett case, the so-called Barrett letter. I did not even look at the files.

Q That was a special listing and the commutation of a murderer of life sentence?

A Yes, and there are some in this stack—

Q I am asking about this. We will get to each, one at a time.

Is there anything unusual about a letter, in a case where a pardon is sought, written by a person who is either close to the family, a doctor, a physician or some political figure, describing the person's behavior during the ten year period prior to consideration by the Board? From your own knowledge is there anything unusual about that?

A I could not testify from my own knowledge.

Q You would not say it is unusual?

A I do not know.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Wright, there is a difference, however, between a letter of recommendation or a letter of good character than one similar to the one that you have which brings in the political possibilities of the pardon. Is there not?

A I should think so.

Q Isn't that why this is one of the letters you selected or read to us? That makes the difference. A letter addressed to the Pardons Board in the form of a recommendation or a character letter is a normal practice and there would be no objection?

A I might say—I do not know if it is in order at this time or not. Mr. McBride identified me as a former Assistant District Attorney from Philadelphia. While I was such, one of my duties was representing that office before the Board of Pardons. I was responsible for the principle number cases, during the time I had the assignment, for the decision of what position the District Attorney of Philadelphia would take. In connection with that work, I would say that I had certainly on an average of one visitor per week to my office to discuss cases with me. It may be counsel; it may be a minister; it may be a member of the family. I received telephone calls. I believe I received correspondence along the same line. I do say, however, that no persons ever spoke to me in terms of Democrat or Republican affiliation of the applicant.

BY MR. KOHN:

Q You mean you never had any political figures in the City of Philadelphia ever talk to you about the applicant?

A No. not to me.

Q Not to you?

A No.

BY REPRESENTATIVE BELL:

Q Did they ever talk to your boss?

A I would not know; not in my presence.

BY CHAIRMAN TOMPKINS:

Q Did your boss ever say anything to you along that line?

A No.

BY REPRESENTATIVE BELL:

Q Was Dilworth the District Attorney?

A Of course.

Q For the record.

A Yes.

SENATOR YOSKO: What was the charge there? I just want to get that.

MR. KOHN: Receiving stolen goods.

THE WITNESS. Shall I continue?

BY CHAIRMAN TOMPKINS:

Q I have a question I want to ask. This was an application for pardon, as I understand?

A That is correct.

Q Was this man in jail at the time this application was filed?

A I rather doubt it.

O I get from that letter that he had been out of jail for quite some number of years.

A Well, apparently, according to the application, he was indicted in March Sessions of 1938 and—Well, here, "In what institution are you now confined?" He states, "None." In reply to another question he stated—

Q That was in 1938. When was he sentenced and for how long?

A He was sentenced, he states, on "April 7, 1938." Now, I can state that—Well, his sentence here, according to his application, states that he was given one year's probation. So, apparently, he was never confined.

BY SENATOR YOSKO:

Q This is an application for a pardon then?

A Oh, yes.

BY CHAIRMAN TOMPKINS:

Q In other words, this is an application for a pardon some number of years after the time of the offense. Is that right?

A Well, this application would, apparently, have been heard some twelve years after the order of probation.

CHAIRMAN TOMPKINS: Very well.

ATTORNEY GENERAL McBRIDE: Take up the next case, Mr. Wright.

THE WITNESS: I now pick up the folder of Charles E. Gretz—G-r-e-t-z—Jr. Application number A-1066. It would appear that Gretz—Frankly, I do not know what it appears. There was written on the application here in ink "October 1951." That was scratched out and there is written over it in pencil, "June 1952." So, take your own estimation of when it was heard.

This was for an application for a commutation of sentence.

REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Of minimum?

A Well, it says, "Commute my sentence." Apparently, it would be. I do not know. As I say, I have not studied these files.

MR. KOHN: What is the question?

ATTORNEY GENERAL McBRIDE: Just whether it is commutation of minimum or maximum sentence.

MR. KOHN: Well, you see he cannot tell. These are old forms and the old forms just say, "Commute my sentence and grant my pardon." He would not be able to tell until he gets into the testimony.

THE WITNESS: At any rate, the individual had been convicted of burglary and started serving a sentence of three to ten years in the Western Penitentiary on December 12, 1949. This is a Washington County case, apparently.

In that folder, I find this correspondence. According to the application, this man was represented by one T. C. Jones, Esquire, of 336 Sixth Avenue, McKeesport, Pennsylvania. As Mr. Kohn indicated, apparently there was a reargument in this case.

RECROSS-EXAMINATION

BY MR. KOHN:

Q The face of the application shows that he was arrested and the reargument was 9-7-52; does it not?

A Yes.

MR. KOHN: I am trying to assist him, if you do not mind.

ATTORNEY GENERAL McBRIDE: Fine. Don't go Greek on me though.

MR. KOHN: You can't tell, Mr. McBride.

THE WITNESS: There is a letter in the file on the stationery of City of McKeesport, Pennsylvania. It bears what purports to be the seal of that city. Office of the Mayor; C. A. Kinkaid—K-i-n-k-a-i-d—Mayor, dated April 4, 1952, addressed to Honorable Robert E. Woodside, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania:

"Dear Sir:

"Being very much interested in the case of Charles Gretz, Jr., of McKeesport, Pennsylvania, who is now serving a term in the Western Penitentiary, and as this young man has now served more than two years of his three to 10 year sentence, I would very much appreciate it if the Parole Board could see their way clear to open this case again for a re-hearing.

"This young man comes of very good parents and I am so personally interested in this case that, as your records will show, I have offered to sponsor him; therefore, kindly accept this letter as an appeal to your Board for a re-hearing of this case.

"Any favorable consideration that might be given in this case will be very much appreciated.

"Yours sincerely,

/s/ "C. A. Kinkaid, Mayor."

That letter, as I noted, was dated April 4, 1952. Under date of April 17, 1952, on the stationery of the Board of Pardons, there is one of these items, which I think has been referred to in the testimony as a "round robin," which the Secretary prepares and passes amongst the members of the Board.

"Subject: Charles E. Gretz, Jr., No. 52 January 1952 Session

"To: Honorable Lloyd H. Wood, Honorable Gene D. Smith, Honorable Robert E. Woodside, Honorable William S. Livengood, Jr.

"From: Joseph Nissley, Secretary, Board of Pardons

"The petitioner, by C. A. Kinkaid, Mayor of McKeesport, Pennsylvania, requests a reargument at the June 1952 Session of the Board of Pardons.

"The attached letter is self-explanatory.

"Kindly initial and send to other members of the Board of Pardons and please return to sender.

"Action of the Board:

"Those favoring:"—and under that column appear the initials, "R.E.W., W.S.L. Jr., L.H.W.

"Those opposed:"—there appears to be the initials of someone and I take it to be that of Gene D. Smith. That would correspond with the members of the Board.

There is a carbon copy of a letter dated May 7, 1952, addressed to T. C. Jones, Esquire, 335 Sixth Avenue, McKeesport, Pennsylvania:

"Dear Mr. Jones:

"The Board of Pardons has directed me to advise you that they have granted a reargument on the application of Charles E. Gratz, Jr., for commutation of sentence. This case will be relisted for hearing at the June Session of the Board and you will be notified as to the date of the hearing.

"Very truly yours,

"Joseph Nissley, Secretary."

FURTHER REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Jones was his counsel?
A That is correct.
Q Mr. Jones filed no petition for rehearing?
A There does not appear to be one in the file.
Q But the Mayor did send that letter?
A That is correct.
Q A rehearing was granted?
A That is correct.
Q And acted upon favorably?
A Yes.
Q After the rehearing was had. Now, were there any new or substantially new grounds asserted in the letter or anywhere in the folder?

A The only ones I can discern is that the Mayor of McKeesport expresses a personal interest in his application.

ATTORNEY GENERAL McBRIDE: You may cross-examine.

FURTHER RECROSS-EXAMINATION

BY MR. KOHN:

Q The Mayor of McKeesport, in the parole report, said he wanted to give him a home and a job, did he not?

A I think, Mr. Kohn—Oh, I did not read that report. I think if you will look at the application itself, however, it states that Mayor Charles A. Kinkaid, People's Bank Building, McKeesport, Pennsylvania, is listed as the name and address of sponsor if granted commutation. He so states in his letter. He says that he has offered to sponsor him.

BY REPRESENTATIVE BELL:

Q What was the other offense that this man was serving a sentence for?

A Burglary.

BY MR. KOHN:

Q Do you know how much time he had done by the time he was granted commutation?

A Well, he states on his application that he started serving his sentence December 12, 1949.

Q What is the date of the commutation?

A It states in the carbon copy of what appear to be the reasons given by the Board of Pardons for their action that it is recommended that his sentence be reduced from the minimum term of three years to a minimum of two years, one month and fourteen days.

MR. KOHN: I have no further questions.

ATTORNEY GENERAL McBRIDE: Take up the next case, Mr. Wright.

BY CHAIRMAN TOMPKINS:

Q I have some questions, Mr. McBride.

Can you tell us what political affiliation Mayor Kinkaid is or was at that time?

A I have no personal knowledge. I was informed that he was, and if he still is alive—I do not know if the gentleman is or not—the gentleman is a Republican. I have no personal knowledge of that.

BY MR. KOHN:

Q Where did you get that information?

A Well, I conferred with members of the Board of Pardons—

Q You can tell us where.

ATTORNEY GENERAL McBRIDE: I understand he was here, oddly enough, last night. He is working for the State now.

CHAIRMAN TOMPKINS: It seems to me I saw his name in the Pittsburgh papers.

SENATOR SCOTT: Working for who, Mr. McBride?

ATTORNEY GENERAL McBRIDE: For Highways, I understand.

REPRESENTATIVE BELL: Is he a Democrat?

ATTORNEY GENERAL McBRIDE: No. Possibly a good and very sound Republican.

SENATOR SCOTT: Probably a competent individual.

ATTORNEY GENERAL McBRIDE: Take up the next case.

THE WITNESS: I have before me now the case of Bendetto DeCave—D-e-C-a-v-e—Number 9526, October Session 1951. I should like to say that there appears to be an erasure of that entry; that is, October 1951. I do not know what formerly was there. This applicant states that he had been convicted for the crime of burglary. He was confined at Eastern State Penitentiary. He started serving his sentence July 17, 1947; received a sentence of ten to twenty years in Philadelphia.

This applicant was represented by Harold B. Lipsius, Esquire, 1332 Lincoln Liberty Building, Philadelphia 7.

BY SENATOR YOSKO:

Q How do you spell his name?

A L-i-p-s-i-u-s.

If the Committee will indulge me a moment until I get these papers into the right order here.

CHAIRMAN TOMPKINS: Was this for a commutation or a pardon?

SENATOR YOSKO. Why, this is an application for a commutation.

THE WITNESS: It is merely a matter of getting them in chronological order.

There is a letter on the stationery of Harold B. Lipsius, Attorney-at-Law, 1332 Lincoln Liberty Building, Broad and Chestnut Streets, Philadelphia 7, Pennsylvania, lated, August 30, 1951, addressed to Honorable Joseph Nissley, Secretary, Board of Pardons, Justice Department, Harrisburg, Pennsylvania.

"In re: Benedetto DeCave.

"Dear Sir:

"The above application was filed at this time with the hope that the Board of Pardons would reconsider same prior to January, 1952 for the reasons set forth in the petition.

"I would greatly appreciate having this grought to the attention of the Board if you consider it feasible.

"Very truly yours,

/s/ "Harold B. Lipsius."

FURTHER RECROSS-EXAMINATION

BY CHAIRMAN TOMPKINS:

Q He was the attorney for the applicant.

A That is correct.

There is a carbon copy of a letter on Department of Justice, Board of Pardons stationery, dated August 28, 1951, addressed to Harold B. Lipsius, Esquire, 1332 Lincoln Liberty Building, Broad and Chestnut Streets, Philadelphia 7, Pennsylvania.

"Dear Mr. Lipsius:

"This is to acknowledge receipt of the application of Benedetto DeCave, for commutation of sentence, and your check in the sum of ten ($10.00) dollars, the filing fee.

"Our record shows that this application was filed on December 13, 1950 and refused by the Board of Pardons at its February 1951 Session, and under the rules of the Board, he is not eligible to reapply until the expiration of one year. However, since the Board did not meet during the month of January 1951, due to the change of the administration, we are holding this application until the January 1952 Session.

"Very truly yours,

"Joseph Nissley, Secretary."

I should like to call the Committee's attention to the fact that Mr. Lipsius' letter, to which this obviously is a reply, is dated August 30 and the reply is dated August 28. That is undoubtedly a typographical error.

There is a letter on the stationery of City Council, Philadelphia 7, Committee on Public Works, Cornelius S. Deegan, Jr., Chairman, 406 City Hall, dated August 23, 1951, addressed to Honorable Robert E. Woodside, Jr., Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania.

"Dear General:

"I am sponsoring Benedetto DeCave in his third application for clemency, and I understand that under the rules of the Pardon Board it cannot be heard until February, 1952, unless the Board, on its own motion, orders a rehearing at an earlier time. I respectfully urge the Board to rehear the matter sooner.

"This applicant is a neighbor of mine. I know him and his family well, and believe that his release from confinement at this time will be a valuable step in his rehabilitation. He is a first offender. Your Board recently and since his last application reviewed the facts of his crime with favor toward commutation when the sentences of other men with whom he perpetrated the crime were cummutted.

"I will personally appreciate anything you can properly do in this matter to expedite his application and ultimate release.

"Sincerely yours,

/s/ "C. S. Deegan, Jr."

There is a handwritten notation at the bottom of that letter which reads as follows: "I agree to rehear. R.E.W."

There is a carbon copy of a letter dated August 25, 1951, on stationery of the Department of Justice, Commonwealth of Pennsylvania, addressed to Mr. Cornelius S. Deegan, Jr., Chairman, Committee on Public Works, City Council, Philadelphia 7, Pennsylvania.

"Dear Mr. Deegan:

"I have referred your letter to the Secretary of the Pardon Board for reference to the individual members to see whether they will agree to a rehearing.

"Sincerely yours,"

BY CHAIRMAN TOMPKINS:

Q That is signed by whom, Mr. Nissley?

A This one is not signed. It does not have any typed signature. It is on the stationery of the Department of Justice.

FURTHER REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Board of Pardons stationery or Department of Justice?

A No. The red printing of the letterhead reads as follows: "Commonwealth of Pennsylvania, Department of Justice, Harrisburg."

Q Now, was a rehearing granted?

A There are some more letters here. I still have to sort them out.

There is another letter on the stationery of City Council, Philadelphia 7, Committee on Public Works, Cornelius S. Deegan, Jr., Chairman, 406 City Hall, dated August 23, 1951, addressed to Honorable Gene D. Smith, Secretary of the Commonwealth, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania.

"Dear Gene:

"I am sponsoring Benedetto DeCave in his third application for clemency, and I understand that under the rules of the Pardon Board it cannot be heard until February, 1952, unless the Board, on its own motion, order a rehearing at an earlier time. I respectfully urge the Board to rehear the matter sooner.

"This applicant is a neighbor of mine. I know him and his family well, and believe that his release from confinement at this time will be a valuable step in his rehabilitation. He is a first offender. Your Board recently and since his last application reviewed the facts of his crime with favor toward commutation when the sentences of other men with whom he perpetrated the crime were commutted."—commuted. Actually, it is incorrectly spelled. I am pronouncing it as it is spelled, commuted.

"I will personally appreciate anything you can properly do in this matter to expedite his application and ultimate release.

"Sincerely yours,

/s/"C. S. Deegan, Jr."

Attached to that is a carbon copy of what appear to have been a letter dated August 29, 1951, addressed to Mr. Cornelius S. Deegan, Jr., Chairman, Committee on Public Works, Room 406 City Hall, Philadelphia 7, Pennsylvania.

"My dear Councilman:

"This will acknowledge your letter of August 23 relating to the reconsideration of the application for clemency of Benedetto DeCave.

"Your letter has been referred to the Secretary of the Board of Pardons with the request that a petition for rehearing be prepared and circulated among the members of the Board of Pardons.

"Sincerely yours,

"Gene D. Smith,
"Secretary of the Commonwealth."

Next there is a round robin on the stationery of the Board of Pardons, dated August 31, 1951.

"Subject: Benedetto DeCave, No. 111, February 1951 Session.

"To: Honorable Lloyd H. Wood,

"Honorable Gene D. Smith,

"Honorable Robert E. Woodside,

"Honorable William S. Livengood, Jr.

"From: Joseph Nissley, Secretary,

"Board of Pardons.

"The Petitioner, by Mr. Cornelius S. Deegan,

"The petitioner, by Mr. Cornelius S. Deegan, Jr., requests that a rehearing be granted at the October 1951 Session of the Board.

"The attached letter is self-explanatory.

"Kindly initial and send to other members of the Board of Pardons and please return to sender.

"ACTION OF THE BOARD:

"Those favoring:"—There are the initials of four persons. "Those opposed:"—No initials under that column.

There are two carbon copies of what appear to have been letters, both dated September 7, 1951, both on the letterheads of the Board of Pardons.

One is addressed to Mr. Cornelius S. Deegan, Jr., Chairman, Committee on Public Works, City Council, Philadelphia 7, Pennsylvania.

"Dear Mr. Deegan:

"This is to advise you that the Board of Pardons has granted your request for a rehearing on the application of Benedetto DeCave, for commutation of sentence. This case will be relisted for hearing at the October Session of the Board and his representative will be notified as to the date of the hearing.

"Very truly yours,

"Joseph Nissley, Secretary."

The other such copy is addressed to Harold B. Lipsius, Esquire, 1332 Lincoln Liberty Building, Philadelphia 7, Pennsylvania.

"Dear Mr. Lipsius:

"This is to advise you that the Board of Pardons has granted a rehearing on the application of Benedetto DeCave, for commutation of sentence. This case will be relisted for hearing at the October Session of the Board and you will be notified as to the date of the hearing.

"Very truly yours,

"Joseph Nissley, Secretary."

There is a letter on the stationery of City Council, Philadelphia 7; Committee on Public Works, Cornelius S. Deegan, Jr., Chairman, 406 City Hall, dated October 16, 1951, addressed to Honorable Robert E. Woodside, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania.

"RE: Benedetto DeCave.

"Dear General:

"The application for the above named about which I wrote to you previously and in which I am the applicant's sponsor is on the list for hearing on Wednesday. October 17, 1951, being No. 107 on the list.

"I hope to be in Harrisburg on the day of the hearing in order that I may answer any questions that the Board may desire to ask me; however, in the event that I am unable to leave town because of the pressure of the election campaign, I would apprciate having you note my interest in this man.

"Sincerely yours,

/s/ "Cornelius S. Deegan, Jr."

BY ATTORNEY GENERAL McBRIDE:

Q How did it all turn out?
A He got favorable action.
Q Was there any petition filed by his counsel?
A Not that I have been able to find in the file.
Q Any new reasons not heard at the first hearing?
A None other than that he was a neighbor and a friend of Mr. Deegan.
ATTORNEY GENERAL McBRIDE: Cross-examine.

FURTHER RECROSS-EXAMINATION

BY MR. KOHN:

Q In other words, that was prior to the adoption of Rule VI (b) by the present Board?
A I do not know when they adopted that.

BY CHAIRMAN TOMPKINS:

Q Mr. Wright, when did you say you were in the District Attorney's Office in Philadelphia; what year?
A I was there from about March of 1954 until February of 1956. Does that add up to nearly two years?
Q Yes.
A At which time I came here.
Q Is there anything in the record here to indicate the position of the Court and the District Attorney on this application?
A I have not consulted the file. I shall do so. There does not appear to be anything in this particular one; that is, on the hearing for October, 1951.

I see in the folder of the hearing for February, 1951, a report of the Board of Parole in which the parole officer states:

"Presiding Judge will write his comments to the Pardon Board at a later date.

"District Attorney will not review case until a few days prior to the hearing."

Yes, there is a letter in that folder, that is, for the February, 1951 hearing, on the stationery of the Court of Common Pleas No. 1, Philadelphia, Judicial Chambers, 242 City Hall; Joseph L. Kun, President Judge, dated January 25, 1951 to Mr. Joseph Nissley, Secretary, Board of Pardons, Harrisburg, Pennsylvania:

"In re: Application for Commutation Benedetto DeCave.

"Dear Mr. Nissley:

"This case was tried before the late Judge Harry S. McDevitt, and inasmuch as I have no knowledge of the facts, the Board will have to determine the matter on the basis of the record.

"Very truly yours,

/s/ "Joseph L. Kun."

Now, in the folder for the hearing, again there is an over-writing here. I do not know when it was held. There is a letter in another folder on the stationery of the Court of Common Pleas No. 1, Philadelphia; Judicial Chambers, City Hall, Harry S. McDevitt, President Judge, and it names the other Judges in the Court, dated September 11, 1948, addressed to Board of Pardons, Harrisburg, Pennsylvania:

"In Re: Benedetto DeCave

"Gentlemen:

"I sentenced this man to ten to twenty years for burglary in July, 1947. I think he has a colossal gall to even ask for consideration at this time.

"While his performance and discipline records at the institution are excellent, he isn't worthy of any consideration at this time.

"Very truly yours,

/s/ "Harry S. McDevitt."

BY CHAIRMAN TOMPKINS:

Q The parole report indicates there was a favorable prison record?
A Before I reply to that, I happened to see right adjacent to this letter, a letter dated September 21, 1948, from the District Attorney then in office, John H. Maurer, which concludes:

"The Commonwealth is opposed to the granting of clemency in this matter."

Now, I will see if I can find the parole report. Well, there is both a parole report and a Commutation Summary from the Eastern State Penitentiary. I think the Penitentiary report is probably what you want.
Q Yes. What is the conclusion of the Penitentiary report.
A They have changed their form. They use to state their success singularly, but this time they did not.

"This prisoner has been assigned to Greaterford since 10-6-57. He was enrolled in school for three months and made fair progress in spelling and English courses. He worked as a grading project laborer from 10-9-47 until 9-10-48 when he was transferred to the maintenance department where he has established a very good performance record as a plumber. Supervisor reports that he seems to be interested and well motivated, is a willing worker and obedient to orders. Disciplinary record and adjustment reports are excellent. He received State military bonus and military insurance refund during his incarceration and it is reported that he has sent considerable money from his income to his wife. He also has provided funds for sending Care packages to deserving people whom he met while in the military service in Europe."

CHAIRMAN TOMPKINS: That is all.

BY MR. KOHN:

Q Judge McDevitt, of course, is known to be pretty much of a radical as far as criminal cases are concerned?

A He has a reputation consistent with your observation.

ATTORNEY GENERAL McBRIDE: As what, a radical?

THE WITNESS: As far as sentencing. I take it that Mr. Kohn means that he was rather severe.

BY MR. KOHN·

Q He would have no hesitation in handing out the maximum in any case?

A He got ten to twenty years. I do not know how many anyone else may have got.

MR. KOHN: I have no further questions.

FURTHER REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Will you take up the next one then Mr. Wright?

A I turn now to the folder containing the application of Charlies Goldfine, Number A-327, May Session 1950. in which the applicant seeks a pardon for the crime of carrying a concealed deadly weapon, aggravated assault and battery by blackjack. He stated that he was sentenced originally to serve six months to three years in the Phiadelphia County Prison.

CHAIRMAN TOMPKINS: May I interrupt just a minute. I wonder if the side-bar conference over here might adjourn to other quarters. It is interfering with the testimony.

LIEUTENANT GOVERNOR FURMAN: We were just attempting to get it straightened out. We think we have it straightened out, sir.

CHAIRMAN TOMPKINS: We think we understand what you were trying to do, but it is rather difficult to hear the witness.

FURTHER RECROSS-EXAMINATION

BY SENATOR YOSKO:

Q What did he get? What was the sentence?

A He states in his application that he was originally sentenced on November 25, 1935 to six months to three years in the Philadelphia County Prison and reconsidered November 25, 1935 and placed on probation for one year. It would appear, therefore, that he had never been confined.

BY CHAIRMAN TOMPKINS:

Q Is this an application for pardon?

A Yes. In the file I find a letter as follows:

"Member of Republican Central Campaign Committee.
"Residence: 2929 South 13th Street. Fulton 9-2424.
"Richard R. Samuel, 2035 S. Broad Street, Philadelphia 48, Pa." dated May 17, 1950:
"Honorable William S. Livengood, Jr.
"Secretary of Internal Affairs
"Harrisburg, Pennsylvania

"Dear Mr. Livengood:

"Congratulations on yesterday's splendid victory, and you may rest assured that we will put forth our best efforts in November to continue the Repblican electoral success.

"May I ask you to lend your good assistance in behalf of Charles Goldfine, whose application for a pardon will be heard by the Board of Pardons on May 18, 1950.

"Mr. Goldfine whom I have known for some years, is a prominent figure in various charitable drives in Philadelphia, and is now about to open a drive-in theatre in my Ward, which will be the largest in the country, and he bears a fine reputation both in the movie industry, in which he is engaged, and amongst everyone who knows him.

"With best regards, and thanking you for your cooperation herein, I am,

"Sincerely yours,

/s/ "Richard Samuel."

There is also a letter which has apparently no political connotations from the Crime Prevention Association of Philadelphia, signed by Nochum Winnet, Chairman. There is also one from the Democratic Judge of Common Pleas in Philadelphia, Honorable Joseph Sloane, which is of a rather innocuous nature.

FURTHER REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q How did—

A I will be glad to read them if you care. They are simply laudatory of the applicant.

Q How did Mr. Goldfine do?

A He was given a pardon.

ATTORNEY GENERAL McBRIDE: Cross-examine.

FURTHER RECROSS-EXAMINATION

BY MR. KOHN:

Q That was at least fifteen years after he had been put on probation?

A That is right.

MR. KOHN: That is all.

BY CHAIRMAN TOMPKINS:

Q Was Judge Sloane the sentencing Judge?

A No, I doubt if he was on the Bench then.

ATTORNEY GENERAL McBRIDE: He has been on the Bench twenty years.

THE WITNESS: Tumolillo, Joseph G. Tumolillo was the trial Judge according to the application.

BY CHAIRMAN TOMPKINS:

Q Is there anything in the record there from either the sentencing Judge or the District Attorney regarding the application?

A There is a letter on the stationery of the District Attorney of Philadelphia, John H. Maurer, District Attorney, dated May 18, 1950.

Q What is his final recommendation there without reading the whole letter?

A It does not appear to be all here. I know because I always used this same form.

BY REPRESENTATIVE BELL:

Q Doesn't the carbon copy of the reasons for the pardon contain the District Attorney's recommendation?

A Sometimes.

In the copy of the reasons in granting this application the Board states:

"The trial judge has not seen fit to advise his reaction in this matter, but has stated to the Board of Parole that he leaves the matter up to the discretion of the Board. The District Attorney of Philadelphia County leaves the matter of pardon up to the Board.

ATTORNEY GENERAL McBRIDE: Next case.

THE WITNESS: I turn now to the case of Floy—F-l-o-y—C. Jones, Jr., Number A-449. Originally written in ink is the word "September" and that is scratched out, and written in in pencil is the word "November" Session 1950. Mr. Jones was convicted of involuntary manslaughter and sentenced on April 19, 1950 to imprisonment of one to three years in the Allegheny County Workhouse. This is an Elk County case. In the case, I find a letter on the stationery of the Republican Executive Committee, Armstrong County, Kittanning, Pennsylvania; Robert Powers, Chairman; Mrs. Ruth Harris, Vice Chairman; Mrs. E. Marie Miller, Secretary; Ross B. McIlwain, Treasurer, dated September 1, 1950, addressed to Secretary of Board of Pardons, Harrisburg, Pennsylvania:

"Dear Sir:

"It is my understanding that Floy C. Jones has presented a petition for commutation of sentence with the Pardon Board.

"I have known Mr. Jones for at least twenty years and feel that the punishment he has received has served its purpose and that further punishment would not help him to become a more useful citizen.

"Any time that the board might see fit to shorten his sentence, if under strict parole would give him an opportunity to adjust himself earlier to gainful work and to care for and support his family.

"There is no doubt in my mind that he can be of service to his community and that his family need him.

"Sincerely,

/s/ "Robert H. Powers."

FURTHER RECROSS-EXAMINATION

BY CHAIRMAN TOMPKINS:

Q What was the date of that letter?

A That is dated September 1, 1950.

Q When did he start serving his sentence?

A April 19, 1950.

There is a letter in the file of this case on the stationery of the Senate of Pennsylvania—let me get my Roman numerals correct now. That would be the 46th District, I believe, William J. Lane, Fredericktown, Pennsylvania. The letter is addressed to Commonwealth of Pennsylvania, Department of Justice, Mr. Joseph Nissley, Secretary; Board of Pardons, Room 425, Main Capitol Building, Harrisburg, Pennsylvania:

"Re: Petition for Parole of Mr. Floy C. Jones, Jr., Kittanning, Armstrong Co., Pennsylvania

"Dear Mr. Nissley:

"I am writing this letter to the Board of Pardons on behalf of the above captioned petition for parole or commutation of his sentence.

"According to information received, the petitioner above named, was convicted of Involuntary Manslaughter and was committed to the Allegheny County Work House, to serve the sentence imposed upon him by the Court of Common Pleas.

"I am not personally acquainted with the petitioner. However, I have had the pleasure of being personally acquainted with his uncle, Mr. C. H. Jones, who resides in the City of Washington, Washington County, Pennsylvania and for the information of the Board, Mr. Jones is a person of excellent character and reputation, and I am quite confident that he has the respect and confidence of the good citizens within the City. He and his son operate a business establishment in the City, and it is one of the oldest firms in operation at this writing.

"He has informed me that Floy C. Jones is age 47 years, and that he is a member of the Bar of Armstrong County, and is married and has the responsibility of maintaining his wife and family.

"He also informs me that he has been in frequent contact with the petitioner, and that in his opinion, any continued confinement of your petitioner will work an extreme hardship upon his family, and that should he be fortunate enough to receive the commutation of his sentence, he would be in a position to go back to his home community and re-establish his practice of law, and endeavor to become a respected citizen of that area.

"Mr. Jones also informs me that in his opinion, his nephew, the petitioner has most certainly learned his lesson, and is very repentant of the wrongful acts that he has committed, and that the petitioner, if given the opportunity, will prove to your Honorable Board, that he has the character and integrity to become a substantial law abiding and respected citizen of his community.

"Very truly yours,

/s/ "William J. Lane."

BY REPRESENTATIVE BELL:

Q Does the record show whether or not that was involuntary manslaughter by an automobile?

A I believe it does. I believe that is the case. I did not, as I say, familiarize myself with the details of these cases.

I have another letter on the stationery of Commissioners Office, Armstrong County, Kittanning, Pennsylvania, listing the Commissioners and the other officials of the county, dated September 2, 1950, addressed to Mr. Joseph Nissley, Pennsylvania State Pardon Board, Harrisburg, Pennsylvania:

"Re: Mr. Floy C. Jones, Jr.

"Dear Mr. Nissley:

"I understand that Floy C. Jones, Jr., who is now in the Allegheny County Work House at Blawnox, Pennsylvania, on a charge of involuntary manslaughter, has petitioned your Board for a commutation of his sentence.

"I am writing this letter to endorse his petition and recommend to you, if possible to give his petition favorable consideration. I have known Mr. Jones for many years. He comes from an excellent family and on the whole he has been a worthwhile citizen in the community. He served one term as District Attorney of Armstrong County and has the reputation of being a very good attorney. I am well aware of his weakness and I am not excusing any wrong that he has done. However, he has served several months in the work house and I am sure that he has come to a full under standing that he has done wrong. His family is suffering due to his confinement and I feel that the interests of the community will be better served by his being returned to civilian life.

"Your very truly,

/s/ "Ray DeLancey
"Armstrong County Commissioner."

There is another letter on the stationery of the Commissioners Office, Armstrong County, Kittanning, Pennsylvania, dated August 28, 1950, addressed to Mr. Joseph Nissley, Pennsylvania State Pardon Board, Harrisburg. Pennsylvania:

"Re: Floy C. Jones, Jr.

"Dear Mr. Nissley:

"I am writing you in behalf of Floy C. Jones, Jr., who is now in the Allegheny County Work House at Blawnox, Pa.

"I have known Mr. Jones for the past twenty years. He has been one of the outstanding attorneys in Armstrong County and served one term as District Attorney of the county. In 1949 he was again a candidate for the office of District Attorney, in which campaign he was successful, being elected at the November election of 1949.

"Mr. Jones comes from a very reputable and prominent family and his character has been above reproach until the last few years when he began drinking to excess. I sincerely believe that all persons breaking the laws should be punished. However, Mr. Jones has served a portion of his sentence and I think he has come to realize the wrong he has done and if paroled at this time would mend his ways. I have sponsored several parolees and have come to learn that we have a wonderful parole system in Pennsylvania. If you can possibly see your way clear to parole him I feel he will take his place in society and it would be the best for him and his family. If you grant him a parole I would ask that you include as one of the conditions of his parole that he refrain from the further use of alcoholics.

"Your very truly.

/s/ "Wm. H. Claypoole
"Chairman, Board of County Commissioners of Armstrong County."

There is a letter on the stationery of the Office of Treasurer of Armstrong County, Ross B. McIlwain, Treasurer, Kittanning, Pennsylvania, dated August 31, 1950, addressed to Mr. Joseph Nissley, Secretary, Board of Pardon, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania:

"Dear Mr. Nissley:

"It has come to my attention that Floy C. Jones, Kittanning, Pa. who is now undergoing imprisonment in Allegheny County Workhouse on a charge of manslaughter, has filed petition for commutation of his sentence.

"In that case, I heartily support any movement to effect his release.

"I have been personally acquainted with Mr. Jones for a great number of years and consider him as one of my best friends. His integrity and reputation is unchallenged except for the one fault which caused his conviction on this charge.

"I do not question the fact that he did wrong and that his punishment so far is just. However, in light of his background and the present circumstances, I feel that he has been punished enough.

"I feel that it will be of more benefit to him, to his family, to his business and law associates and to society in general if he could now resume his place in society.

"Sincerely yours,

/s/ "Ross B. McIlwain
"Treasurer of Armstrong County."

FURTHER REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q How did he do?
A He was successful in his application for commutation.

FURTHER RECROSS-EXAMINATION

BY MR. KOHN:

Q When was he commuted, Mr. Wright?
A His sentence was reduced from one year to eight months and was to expire December 19, 1950.

BY CHAIRMAN TOMPKINS:

Q Who was counsel in that Jones case?
A In the Jones case?

Q Yes.
A Well, I do not know. Typed in the appropriate space is the following: "John B. McCue" and that is scratched out and written in pencil underneath is "Mr. Willis H. Heilman, Safe Deposit Bu lding, Kittanning, Pennsylvania," and opposite his name in pencil is the following: "Robert E. Ash, Market Street, Kittanning, Pennsylvania."

I do not know who it was. Apparently it was not McCue. It was either Heilman or Ash or both.

FURTHER REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q What is your next one?

A This next one is the case of Frank Raymond Noggle—N-o-g-g-l-e—Number A-1204. Again, written in is the word "January" and scratched out and the word "March" written in before the Session of 1953. The applicant states that he was convicted in Dauphin County on June 5, 1950 of the crime of burglary and sentenced to three to six years in the Eastern State Penitentiary. Same sentence on twelve counts of burglary to run concurrently. He began serving his sentence, he states, on April 29, 1950. In this folder his application is for commutation. In this folder I find the following letter:

"Harrisburg, Pennsylvania
"January 19, 1953

"Dear Mr. Woodside:

"I am a Mother writing to you for some help, my son has been in prison almost three years, his case will be heard Friday, Jan. 23, 1953, at this time will you please help me to get my boy back home. He has a wife and two children. Mr. Woodside I wrote to Mr. Harvey Taylor in regards to this case, he said he would speak to you about it when the time came. Mr. Taylor is a very good friend of my father (Mr. Frank Ellis).

"My Son's name is Frank P. Noggle and he's in Bellefonte Prison.

"Mr. Woodside please don't let them keep my boy in prison too long. Thank you very much, good luck.

"His Mother. Mrs. Mary Williams,
"2208 N. 3rd St., City."

Q How did he do?

A His application was granted.

Q Any other letters in that folder?

A There is a letter from the sentencing Judge—

Q Well, I mean of the type we are talking?

A No; not of this type.

ATTORNEY GENERAL McBRIDE: All right. Cross-examine.

FURTHER RECROSS-EXAMINATION

BY MR. KOHN:

Q When was his sentence commuted? I mean, after how much time, Mr. Wright?

A Reduced—I can hardly believe what I am reading here. It says here: "I have commuted the minimum sentence of imprisonment of the said Frank Raymond Noggle from 2 years to 1 day, expiring on April 30, 1953."

Actually, the minimum expiration date as shown on the application is April 28, 1953. Is that correct?

A Yes, that is what it says.

Q And this would be then, except for the inexplainable part of one day, would expire April 30, 1953 or two days after his minimum. Is that correct?

A I cannot explain it. Well, now this refers to Lancaster County.

Q This does, too.

BY SENATOR YOSKO:

Q What case is this now?

A I did not know the committee was ready to proceed.

BY CHAIRMAN TOMPKINS:

Q What was the position of the Judge and the District Attorney in that Noggle case?

A The Judge, Paul G. Smith, stated in a letter to the Board dated January 8, 1953, that he would leave the entire matter to the sound judgment and discretion of the Board. I will have to take a look at the record—

BY SENATOR YOSKO:

Q Was the commutation granted?

A The District Attorney of Dauphin County is not opposed. Now, there is something apparently—as I say, I do not know anything about the merits of any of these cases or of contents of files. Apparently, there were concurrent sentences asking for relief from more than one, and it appears he was sentenced from Lancaster County for the one that was commuted. There does not appear to be any charter or recommendation relating to Dauphin County in here.

It does state in the reasons as follows:

"This applicant is thirty years of age and he and two accomplices committted a number of burglaries in Dauphin and Lancaster Counties. He had no previous criminal record. He is imprisoned in the Rockview Branch of the Western State Penitentiary. He was not involved in any of the recent riots in that institution.

"The trial judge of Dauphin County, the Honorable Paul G. Smith, leaves the matter of commutation up to the Board. The district attorney of Dauphin County is not opposed. However, Lancaster County does object to any sort of clemency at this time. At the present time this applicant has served a longer period of time than any of his accomplices and for that reason we recommend that clemency be granted in this matter."

You know as much about it as I do.

MR. Kohn: Mr. Chairman, we had agreed yesterday that we would quit at eleven-thirty so that I could get Mr. Hughes on the stand because he has to go back.

THE WITNESS: I now turn to the case of Benny Daidone—D-a-i-d-o-n-e—Number A-914. "March" is scratch out and written over is "June" Session 1952. Sentenced for the offenses of burglary, larceny, and conspiracy from both Delaware and Philadelphia Counties. The Philadelphia sentence was seven and a half to fifteen years in the Eastern State Penitentiary. Delaware County sentence was five to ten years to run concurrently with the Philadelphia sentence. He states that he began serving his sentence on September 28, 1948.

In the folder appears a carbon copy of what appears to have been a letter written on the stationery of the Board of Pardons, addressed to John Patrick Walsh, Esquire, who represented this applicant, 1732 Commercial Trust Building, Philadelphia 2, Pennsylvania:

"Dear John Patrick:

"As I said what we would do in the Bennie Daidone application, Bill brought up the question of Bennie today and requested that a definite commitment of four years be granted by the Board. This was met by opposi-

tion by the A. G., however, the Board has directed that a reargument be granted at the June Session at which time it is the understanding of at least three members that favorable consideration will be granted.

"Very truly yours,

"Joseph Nissley, Secretary."

FURTHER REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Did he say favorable consideration would be given even before the hearing?

A That is the purport of the letter.

REPRESENTATIVE BELL: Well, sir, doesn't the letter speak for itself?

ATTORNEY GENERAL McBRIDE: A little emphasis does not hurt.

FURTHER RECROSS-EXAMINATION

BY CHAIRMAN TOMPKINS:

Q What is the date of that letter?

A The letter is dated March 20, 1952 and it refers to the hearing at June at which time we will grant the application and at the June Session they did grant it.

BY SENATOR YOSKO:

Q What was the name of that case again?

A Benny Daidone.

FURTHER REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q And from whom did that letter purport to come?

A Joseph Nissley, Secretary of the Board

Q Was there anybody on the Board named Bill?

A Well, Bill would be the diminutive for William and there was a William Livengood on the Board.

ATTORNEY GENERAL McBRIDE: Cross-examine.

MR. KOHN: I would like to see the file if I may.

(Mr. Kohn was handed the file).

ATTORNEY GENERAL McBRIDE: Go right ahead, Mr. Wright.

THE WITNESS: The next case to which I turn is that of Sigmund—S-i-g-m-u-n-d—Wolan—W-o-l-a-n, Number A-1269. "January" is scratched out and written above it in pencil "May" Session, 1952. Applicant states he was convicted of burglary, larceny, receiving stolen goods in Berks County on December 13, 1945, and was sentenced to six to twelve years in the Eastern State Penitentiary which he began serving on September 23, 1950.

In that file I find the following letter, on the letterhead of Edward Day Barker, II, Attorney-at-Law, 1518 Walnut Street, Philadelphia 2, Pennsylvania, dated March 11, 1952 to Honorable Lloyd H. Wood, Lieutenant Governor of Pennsylvania, Harrisburg, Pennsylvania:

"Dear Lloyd:

"I represent Sigmund Wolan, whose application for commutation was listed for hearing on January 15, 1952, under No. A-1269. I recently received word that his application had been refused.

"I am quite concerned about this because he is serving the second of two sentences which were given to him for burglaries that occurred on or about the same time according to my information. The first sentence had a minimum of 5 years, which has been served, and the second sentence, which has a minimum of 6 years, is the one he is now serving. This means that he is being forced to serve 11 years on a burglary charge. This seems to be a rather severe penalty under the circumstances. It is also important to note that if these sentences had been made to run concurrently he would have been eligible for parole at the time of his hearing, and there would have been no necessity of applying to your Board.

"His previous record is not particularly good, but I do feel that it is about time that this boy be given a chance. He has just passed his 30th birthday and I believe he has reached the age where he appreciates the responsibility of being a citizen.

"There may be something in his record of which I am not aware which has caused your Board to turn him down. I would greatly appreciate it, however, if you would examine his record in the light of the contents of this letter and advise me as to your reaction."—That is underscored in red; the words, "advise me as to your reaction."—"I have a strong feeling that his sentence is excessive and feel that I should do everything I can to help the boy.

"I thoroughly enjoyed my chat with you the other day and only wish that time permitted more of the same.

"Best personal regards,

/s/ "Ed"—Written in pencil on the letter are the following words or abbreviations: "Exec. Sess. Rearg. granted."

BY ATTORNEY GENERAL McBRIDE:

Q Any petitions?

A No.

Q Any new grounds?

A None other than what appears in the letter.

Q And when he had reargument how did he make out?

A Well, he got the reargument and then, of course, the Board commuted his sentence from six years to one year, nine months.

Q From six years to one year, nine months?

A That is what the charter states.

ATTORNEY GENERAL McBRIDE: Cross-examination.

MR. KOHN: I have no questions.

FURTHER RECROSS-EXAMINATION.

BY CHAIRMAN TOMPKINS:

Q On that letter, you stated there was an underscoring. Do you know who made that underscoring in this letter?

A No, Mr. Chairman. I should note also that the only time the name Sigmund Wolan appears in the letter, it too is underscored in red pencil as is the underscoring here.

Q Could that have been some underscoring of the recipient of the letter to turn over to the Secretary to check on it?

A It could have been anyone. Anyone could have done it who had access to the letter before it was sent or after it was received. I did not do it, that is the only thing I know.

Q What I am trying to get at—I am not accusing you of doing it.

A I am not trying to be facetious. I really do not know who did it. It would be idle speculation to say that it would be possible that so and so did it.

BY REPRESENTATIVE BELL:

Q The underscoring has no value?

A I am trying to present an accurate and faithful record to the Committee, that is all.

BY CHAIRMAN TOMPKINS:

Q The reason I asked was in the number of cases I have gone through I have noted the same kind of work on communications in the files, and it gave me the impression that the recipient wanted to do that to turn it over to the Secretary to check on it.

A That would be a reasonable assumption.

Q Now, on this question here as to whether or not there were any new grounds. Wasn't this application prior to the time the Board had adopted the rule in connection with rehearings or reconsideration because of new grounds?

A I do not know. I do not know of my own knowledge however, that rule was adopted sometime in the fall of 1955. I understand it was the present Board which did so and that being the case, certainly it was not a rule in 1952 when this letter was sent.

Q We have testimony before the Committee that that is a fact.

ATTORNEY GENERAL McBRIDE: The present rules are stricter.

BY MR. KOHN:

Q Would you, Mr. Wright, in this Daidone case, do the Committee the favor of getting all of the facts on that case and going into it carefully. I think there is a great deal of interest in that case and you check the minutes of the former Secretary of the Board of Pardons and see what, if anything, in any Executive Session was presented in regard to reconsideration of that case within a certain time.

A Did I?

Q Will you?

A If time permits.

ATTORNEY GENERAL McBRIDE: When do you want him to do it?

MR. KOHN: Oh, anytime. We will lay this back and you go back on the next case so that—

ATTORNEY GENERAL McBRIDE: I will undertake to see that it is done.

How about this Perry case, Mr. Wright?

MR. KOHN: Mr. Chairman, I do have Mr. Hughes here. I did cross-examine him, but I do not think I took up too much time with these cases. Our agreement was that he would quit at eleven-thirty and I would go from there on in.

ATTORNEY GENERAL McBRIDE: The eleven-thirty idea was that cross-examination would take place later in the afternoon.

REPRESENTATIVE LOPRESTI: We understood that the Delaware matter would be taken up after eleven-thirty sometime.

MR. KOHN: If the Committee can finish up before lunch, I have no objection. Let me get Mr. Hughes on the stand, instead of at eleven-thirty, as soon as possible.

SENATOR YOSKO: Let's hear this one more case and go for lunch and come back.

CHAIRMAN TOMPKINS: Then we can hear Mr. Hughes the first thing after lunch. He has covered about eight of these cases and you say you have sixteen actually?

THE WITNESS: I think there are seventeen.

CHAIRMAN TOMPKINS: Well, we will hear one more and hear Mr. Hughes when we come back.

SENATOR YOSKO: I have got ulcers and I want to eat on time.

CHAIRMAN TOMPKINS: We will hear this case and recess for lunch and take Mr. Hughes immediately after lunch.

ATTORNEY GENERAL McBRIDE: Take up the Perry case, Mr. Wright.

THE WITNESS: I now refer to the case of Paul Francis Perry—P-e-r-r-y—Number A-454, "September" is scratched out and written above it in pencil is "October" Session 1950. He was sentenced to death for the crime of murder on October 10, 1949, in Bradford County. This is an application for the commutation of the sentence of death to life imprisonment. There are a number of letters in this file, pro and con. Applications for clemency were sent from private citizens and from persons in all walks of life. There are some petitions I believe; yes, signed by quite a number of persons in favor of the application. The only two I propose to refer to are those which I now have before me. One is on the letterhead of the Register and Recorder, Bradford County, Towanda, Pennsylvania, dated September 13, 1950, to the Board of Pardons, Harrisburg, Pennsylvania:

"In re: Paul Francis Perry convicted of murder May Term 1949.

"Gentlemen:

"I believe a commutation of sentence to life imprisonment will meet with public approval. Heavy drinking coupled with domestic troubles, in my opinion, rendered Mr. Perry irresponsible.

"From attendants in the jail and prisoners, I understand Mr. Perry has been a model prisoner since he was committed to jail.

"Thanking you, I am

"Very truly yours,

/s/ "Wayne C. Bennett."

The next one is on the letterhead of the Pennsylvania Department of Revenue, Inheritance Tax Division, Office of Inheritance Tax Investigator and Appraiser, Bradford County Court House, Towanda, Pennsylvania; M. Bernadette Finn, Investigator and Appraiser dated September 15, 1950 to The Honorable Chairman and Members of the Board of Pardons, Harrisburg, Pennsylvania:

"In Re: Case of Paul Perry Bradford County.

"Gentlemen:

"I am writing you in behalf of Paul Perry of Towanda, Bradford County, Pennsylvania. Paul Perry was convicted of murder and given the death sentence.

"He was born and lived in Towanda all of his life, the same as I and up to the time of this tragedy I had never heard anything detrimental to his character. I and many of our townspeople feel that Paul Perry was a victim of circumstances, that he was under the influence of liquor and did not realize what he was doing.

"We all feel that the death penalty should be withdrawn and clemency shown this unfortunate young man. Anything you can see fit to do in his case will be deeply appreciated by his many advocates.

"Very respectfully,

/s/ "M. Bernadette Finn."

There are copies of what appear to have been Western Union telegrams in the folder, addressed to counsel and to private counsel for the private prosecutor as well as to the District Attorney. The first series appear to have been sent out under date of September 29, 1950. They all have the same message. They are respectively addressed to J. Roy Lilley, Esquire; C. Wayne Smyth, Esquire, District Attorney, and William O'Connor, Esquire, Towanda, Pennsylvania, each stating:

"The case of Paul Francis Perry has been refused commutation.

"Joseph Nissley, Secretary
"Board of Pardons."

Chronologically, I should have read these first. These are dated September 21, 1950, and addressed, respectively, to C. Wayne Smith, Esquire, District Attorney, and J. Roy Lilley, Esquire, Towanda, stating that the applications—both of them say the same thing—"Application of Paul Francis Perry is held under advisement by the Board."

"Joseph Nissley, Secretary, Board of Pardons."

Then follows these telegrams saying that the Board has refused.

Then follows the telegram dated October 3, 1950, addressed to C. Wayne Smith, Esquire, District Attorney of Bradford County, Towanda:

"Rehearing granted Perry case before Board of Pardons on October 17, 1950, at 9:00 A. M. Presence of yourself, Shirer and Epstein requested. You are directed to produce the murder weapon for examination by the Board.

"Joseph Nissley, Secretary."

Another dated October 3, likewise, to J. Roy Lilley, Esquire, Towanda:

"Rehearing granted Perry case before Pardon Board for October 17, 1950, 9:00 A. M. Presence of you and O'Conner requested by Board.

"Joseph Nissley, Secretary."

That's all that appears in the file with respect to the rehearing.

BY ATTORNEY GENERAL McBRIDE:

Q Is there anything that shows why the rehearing in this death case was granted?

A Yes, I have here a copy of the reasons filed by the Board for their action, and the pertinent portion of the reasons which refers to your question, General, is this:

"When the Board of Pardons first heard this case, they refused recommendation of clemency and it was after this refusal to recommend clemency, there appeared in the newspapers of Bradford County certain articles wherein it was stated that the private prosecutors were of the opinion that the Board of Pardons should have granted clemency in this matter.

"The Board of Pardons thereupon requested that a reargument be had and private prosecutors appear before the Board. This was done and at that meeting Maurice Epstein, one of the private prosecutors, stated to the Board there was sufficient doubt in this matter to be resolved in favor of the defendant, * * *."

Q Any petitions?

A No, not that I have been able to find.

Q Any new reasons or anything like that?

A The only reasons I have found, the only basis that I found in the files for the granting of the rehearing is what is stated in this statement of reasons by the Board that they read the Bradford County newspapers and decided that they should grant a new hearing, a rehearing.

Q What position did the trial Judge take?

A My recollection is he was opposed to it. Mr. Kohn has the folder.

(Witness was handed file.)

Here is a letter from Judge's Chambers, Forty-Second Judicial District, Towanda, Pennsylvania; William M. Rosenfield, President Judge. It states on here in typing that it is a copy. However, it is signed by the Judge on the printed letterhead, dated September 18, 1950 to the Pennsylvania Board of Pardons, Harrisburg, Pennsylvania:

"Gentlemen:

"Notice of the application of Paul Francis Perry for commutation of sentence to life imprisonment has been served upon me.

"In this case a ne'er-do-well killed his wife, a respected highschool teacher, who was his social, financial, intellectual, and moral superior. The cause first assigned by him was 'If I can't have her, no one is going to have her' (66 a). She was about to leave him. Her numerous complaints against him were summarized most eloquently by her in her letter to him appearing in the record (page 524 a). He lay in wait at his home and killed her with one well aimed shot.

"Twelve highly intelligent, conscientious men promptly decreeed the death penalty. Their verdict met with general public and editorial approval. Commutation of this sentence would add another blot upon the record of decent law enforcement.

"Very truly yours,

/s/ "W. M. Rosenfield."

ATTORNEY GENERAL McBRIDE: Cross-examine.

FURTHER RECROSS-EXAMINATION

BY MR. KOHN:

Q Will you also read into the record the affidavit submitted by—

SENATOR YOSKO: Was the sentence commuted from death?

MR. KOHN: Oh, yes.

BY REPRESENTATIVE BELL:

Q What was it commuted to?

A To life imprisonment.

BY MR. KOHN:

Q Will you also read into the record the affidavit submitted by the private prosecutor as of October 2nd, 1950, of Mr. Epstein to the Board of Pardons?

A I have here a piece of paper which you, Mr. Kohn, referred to as an affidavit. This does not appear to have any notary, any jurant.

Q We will withdraw the question and ask you to read the statement submitted by Mr. Epstein to the Board of Pardons as of October 2, 1950.

A I refer to a carbon copy of what Mr. Kohn characterizes as a statement. I have never seen it before.

Q It was in the record. Didn't you look at it?

A No, I did not. I stated on two or three occasions, I have not familiarized myself with the contents of these files.

Q Did you just pick out certain things without going through the whole thing?

A We picked out the—my instructions to the persons who were doing—

SENATOR YOSKO: Will you speak a little louder, please.

THE WITNESS: Yes. My instructions were, relaying them to people who did the actual work through me, from the Attorney General, were to find cases not dissimilar to that in which the Barrett letter appeared.

BY MR. KOHN:

Q Did you yourself go through that file?

A Cursorily.

Q Did you find any other letters which might—

A Oh, yes; a lot of letters.

Q Written to the Board from different people who wrote in?

A There are numerous letters. There are several petitions signed by dozens of people.

Q Pro and con?

A I think my recollection is pro and con.

Q Are there some in there which tell them that if they commute this sentence it would be a blot on the Republican Party for years?

A I would not know.

Q There it is. Didn't you see that letter?

A No, I did not.

Q Didn't you care to look at it?

A I'll look at any of them.

Q Read the statement first.

A "Towanda, Pennsylvania,

"October 2, 1950,

"To the Honorable, the Chairman and Members of the Board of Pardons of the Commonwealth of Pennsylvania:

"Gentlemen:

"Relative to the case of the Commonwealth of Pennsylvania v. Paul Francis Perry in the trial of which the jury found the defendant guilty of the highest degree, and the verdict carried with it in due course the penalty of death by electrocution, I was associated with the District Attorney and William G. Schrier,"—S-c-h-r-i-e-r—"Esquire, in the prosecution and trial of the case.

"As the case was more in detail considered by the Court and finally before the Board of Pardons, I felt that this was a case that had sufficient uncertainty about it and such that personally I was anticipating that the Board of Pardons would be justified in adopting the clemency of making the penalty life imprisonment, and without assuming to criticize your Honorable Board of Pardons that was my personal feeling relating to the case and I here state I had nothing to do with communicating with the jury that tried the case in writing or otherwise with reference to what they or any of them might consider on reflecting, and I still feel that it would be the safest disposition that the penalty upon the defendant be reduced to life imprisonment.

"W. G. Schrier, Esquire, who participated in the trial of this case is now so-journeying in Canada. (I believe I could get in touch with him) but personally, I have no hesitancy in stating that Mr. Schrier and myself discussed this case as to pardon and agreed that it is one that comes within the purpose of the functions of the Board of Pardons to be lenient in a case with the numerous elements that exist under the proofs.

"Respectfully,"

I don't know if that's "W. L. Epstein.

"Associate Counsel with C. Wayne Smyth"—That is S-m-y-t-h—"District Attorney, and William G. Schrier, Esq., in the prosecution."

Q Doesn't that file indicate, Mr. Wright, that Mr Epstein and Mr. Schrier were hired by the deceased family to prosecute that case?

A I would not know. I didn't look into that enough.

Q You saw the paper there?

A Yes.

Q Now will you kindly read into the record this other letter here?

A "New Albany, Pennsylvania,

"October 9, 1950.

"Honorable Mr. Margotti:"

Q That is Margiotti.

A Well, he says Margotti here. I'm trying to be literal.

"I have read with surprise, in the Towanda Daily, that the Pardoning Board of the Commonwealth of Pennsylvania is reopening for review the case of Paul Perry of Towanda, who in cold blood, premediated, shot and killed his wife a year ago.

"As a minister of the Gospel of Jesus Christ, permit me to urge you to use your influence with the Pardoning Board to sustain this man's conviction, who was tried in the presence of twelve honorable intellectual citizens of Bradford County and found guilty of First Degree murder who recommended the death penalty in the electric chair. Perry was later refused a new trial by our distinguished Judge, Hon. William M. Rosenfield, then our distinguished

Supreme court of Pennsylvania upheld his conviction and you members of the Pardoning Board upheld it.

"If this man's sentence is to be anything less than the electric chair it will be one of the greatest miscarriages of justice ever carried out in the State of Pennsylvania.

"First, if its a political move to save him from the chair, it will be a reflection on the Republican Party that it will take a generation to live it down. I have been a member of that party all my life.

"Second, if it is a religious move, it will be a reflection on religion that will never be blotted out and religion would be made an accessor after the fact.

"Third, if it is a plea of mercy by sob-sisters just remember he had no mercy on an innocent wife after waiting two hours in the house for her to come home and then shooting her down like a wild animal. He deserves the chair. Sustain the Court's verdict and let him pay the penalty. That is Biblical justice.

"Thanking you in advance. I remain

/s/ "Oscar B. Lyon".

It is addressed to Honorable Charles J. Margotti, Attorney General of Pennsylvania, Department of Justice, Harrisburg, Pennsylvania.

Q So there were letters on both sides?

A I so stated at the beginning of my remarks.

Q You did not read any of them on the other side?

A No.

MR. KOHN: That is all.

CHAIRMAN TOMPKINS: Very well. It is now twelve o'clock. We will recess for one hour.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, just before you do recess, the question was raised by Mr. Bell, and it is entirely proper, as to the correctness of our count in the testimony of the Lieutenant Governor and they attempted to get the records here and go over them to ascertain which was correct, and I am informed that the Lieutenant Governor still feels that our figures were correct, but it may turn out that there is some error. Now, I understand also that the House Parliamentarian has ruled that nobody can look at those records until Monday. I think in an important issue like this, and I hope Mr. Bell joins with me, that if our figures are wrong they will be proved wrong as soon as possible. If we are right, we ought to be proved to be right as soon as possible. Whatever margin of error there is should be straightened out. I request to you, sir, as Chairman of the Committee, to attempt to persuade the House Parliamentarian to make those records available as soon as possible so that Mr. Arnold, Mr. Hean or Governor Furman or whoever else wants to look at them to check the accuracy may do so, because I am sure Mr. Arnold, who testified, and Governor Furman, who testified, want to be right and nothing but right.

CHAIRMAN TOMPKINS: General, I understand that there is no objection to a viewing of the records. I understand the objection is that the records cannot be taken out of the place where they are now deposited without permission of the Speaker of the House. There is no objection, so far as I understand, to the going over to that room fhere these records are and going over them there in the presence of the custodian.

ATTORNEY GENERAL McBRIDE: If that is so, then—

REPRESENTATIVE BELL: I think that maybe I improperly informed you about taking the evidence out. Mr. McBride, I think there is a third copy of these records and I think it is in the Secretary of the Commonwealth's Office. Am I right on that, sir?

ATTORNEY GENERAL McBRIDE: There is a copy in the Secretary of the Commonwealth's Office.

CHAIRMAN TOMPKINS: There is a copy in possession of the Clerk of the Senate as well, which was submitted to this Session of the General Assembly, which is duplicates of what is in the possession of the House.

ATTORNEY GENERAL McBRIDE: Well, let us see if we can reach an area of agreement so that Mr. Arnold and someone designated by us will together make account of these records and come out precisely with the right answer.

REPRESENTATIVE BELL: I have no objections.

ATTORNEY GENERAL McBRIDE: I thought you were just as much interested in that as I was.

REPRESENTATIVE BELL: If you recall yesterday when I had these figures in my possession, but I did not get a chance to get in the information, I, at that time, had the Lieutenant Governor testify that these records were given to him. There is no reflection on the Lieutenant Governor whatsoever. I want that on the record also.

ATTORNEY GENERAL McBRIDE: There is no reflection on my part of Mr. Arnold if he should turn out to be incorrect. We want to be sure that in a pure mathematical counting job, none of us be misinformed.

REPRESENTATIVE BELL: The purpose yesterday of my questioning with the Lieutenant Governor was to clearly have in the record the fact that these figures were furnished to him. I think the Lieutenant Governor—

CHAIRMAN TOMPKINS: You didin't personally compile any of those records?

LIEUTENANT GOVERNOR FURMAN: I think whereever Mr. Arnold got his figures from, those are the ones that should be checked. Personally, I believe you should do it at once. I think a grave error was made in his calculations. I am positive of that.

SENATOR SCOTT: Governor, if they are not available over in the House, do you think that maybe this afternoon we can get them over in the Senate from the Chief Clerk?

LIEUTENANT GOVERNOR FURMAN: I think we could.

SENATOR YOSKO: Do I understand then now that those records are not available for review even in the Office of the Parliamentarian?

REPRESENTATIVE BELL: I don't know, sir. I couldn't tell you.

CHAIRMAN TOMPKINS: No, they are in the hands of the Custodian of the Chief Clerk of the House and it has been my understanding heretofore, that he could not leave them go out of his custody without permission of the Speaker of the House. Now we have had no difficulties in being able to review them over there in the presence of the custodian.

MR. ARNOLD: Yes, that is true, sir. The Parliamentarian, Mr. Moore, stated that these are the records of the Speaker of the House and that the Speaker of the

House has not authorized him to remove them from the room for any purpose. In addition, in order to get access to the records, the Speaker of the House would have to give his permission to get access in the room itself.

CHAIRMAN TOMPKINS: Well, I will check that and find out during lunch.

MR. HEAN: I was present, Mr. Chairman, and what Mr. Arnold said, he has substantially told you that.

CHAIRMAN TOMPKINS: We will take a recess for and hour until 1:15.

(Whereupon the hearing was recessed at 12:09 p.m., until 1:15 p.m.).

AFTERNOON SESSION

Thursday, March 28, 1957

COMMITTEE'S EVIDENCE

J. HAROLD HUGHES, recalled on

DIRECT EXAMINATION

BY CHAIRMAN TOMPKINS:

Q I belive you have already been sworn, Mr. Hughes, have you not?

A Yes, I have.

BY MR. KOHN:

Q Mr. Hughes, I don't know where we left off last time. We didn't get very far. I would like to discuss the Michael J. Caserta case first. You have a copy of the grounds upon which the Board of Pardons granted the commutation in that case?

A Yes, I have, sir.

Q Mr. Caserta had an extensive long record; previous record of arrests and few convictions. Is that correct?

A Yes, he did have many arrests and few convictions.

SENATOR YOSKO: Who is this, sir?

MR. KOHN: Michael J. Caserta—C-a-s-e-r-t-a.

CHAIRMAN TOMPKINS: This is the case that we had previously discussed.

SENATOR YOSKO: Yes.

BY MR. KOHN:

Q Did you look over the recommendations of the Board of Pardons and the reasons therefor?

A Yes, I have it in front of me.

Q In regard to the recommendations, facts upon which the recommendations were based, what do you have to say about those?

A Well, they speak here of the accomplices receiving minor sentences. That, in my opinion, is not a correct statement. The accomplices—Caserta was the number banker. The one next to him in order was the pickup man who received eleven months. There were three other sellers who received six months, four months and two months. The one receiving two months was practically a plea of guilty; he did not, but he just did not do anything and did not want to be put on the stand, so that it is not a fair statement to say they had minor sentences.

Then it goes down further and took into consideration the fact that his accomplices, who were equally guilty, received lesser sentences. I have pointed out to you there was no similarity between the accomplices and Michael Caserta who was the number banker.

I might point out, and you might want to know, the original four were arrested in Darby, all connected together and they appealed, and Michael Caserta, the number banker, welched on his agreement with Henry Hampton; refused to pay the costs of appeal and counsel fees, and it was then Michael Caserta was arrested. At that trial the others were out all except Hall at that time. Hall was the eleven month man. At that time, Michael Caserta went to the wife of the Henry Hampton who had done the squealing—

ATTORNEY GENERAL McBRIDE: If this was presented to the Board of Pardons, I have no objection to it. If this is something that Mr. Hughes knows outside of any record made before the Board of Pardons, I object to it. So, I think he ought to tell us whether this argument was made to the Board of Pardons.

THE WITNESS: I was not the one who was there. Generally, it was pointed out at the Board of Pardons that these other men were minor ones, I think, and the big man was Michael Caserta.

ATTORNEY GENERAL McBRIDE: I am satisfied with that statement.

BY MR. KOHN:

Q Caserta's sentence was commuted to what?

A Oh, he had seventeen flat or seventeen thirty-five and I think he was—

BY REPRESENTATIVE BELL:

Q Is that months or years?

A Months.

Q We have had some years here.

A And he was commuted to eleven months.

BY MR. KOHN:

Q What effect, if any, did this have on law enforcement in your county, Mr. Hughes?

A Well, it was the general talk of the county that—Oh, everytime someone was sentenced they would say, "Well, there's another one the Board can turn loose." It, of course, had some interest on law enforcement among officers, but they did continue to make arrests just the same.

Q Is this man Caserta out of Philadelphia or is he a resident of your county?

A Philadelphia, yes; but his men worked in Delaware County, over the line.

Q As far as Caserta is concerned, his background shows that he hardly ever worked in his life and I think the Parole Board Report shows that he had been a racketeer all his life?

A Yes, he had attached to his application—

Q I think we got that in. I think Judge Bretherick presented that.

A Yes.

Q It's in the record. Is there anything else you would like to say? While we have gone over these cases I know what you would like to present and I don't want to continue.

A They say that he has served—this is the opinion of the Board—that he has served quite a substantial portion of his sentence for this type of offense. Now you might want your attention called to the fact that he got seventeen minimum, whereas he could have gotten a thirty minimum.

BY SENATOR YOSKO:

Q What was his sentence?
A His sentence was seventeen to thirty-five.

CROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q How could he get thirty minimum?
A He could have, on conspiracy, got twenty-four flat, and on the lottery, six to twelve.

REDIRECT EXAMINATION

BY SENATOR YOSKO:

Q What did he actually serve?
A He served eleven.

BY MR. KOHN:

Q The same as the accomplices?
A Same as the man who was hired by him to pick up from these men who got six, four and two.
Q Did your county, during this time, announce a drive on this type of individual?
A Well, that was prior to that—
Q Prior to—
A This originally was 1952 when the four men were arrested and the trial of Michael Caserta did not commence until March 18, 1954, because the first four men had gone to the Superior Court which takes some time, and it was not until one of them was in jail that he turned evidence against him because he had not done those things I mentioned.
MR. KOHN: I ask the Attorney General, do you care to cross-examine now before I get to the McSorley case? Would you like to take them in order so that each case is separate or would you like to have me go ahead with everything?
ATTORNEY GENERAL McBRIDE: I am perfectly willing to do it one at a time. I think I will just wait until he finishes his whole testimony.

BY MR. KOHN:

Q Now, you were concerned, I think also, in the case known as the McSorley case, the riot case. You are familiar wth those?
A Yes, that case I tried and participated in two appeals and before the Pardons Board.
Q Now we had Mr. Thescher before us yesterday and he stated what he had said to the Board of Pardons. I think, previously to this, I asked you something about the question proposed to you by some Member of the Board of Pardons and then you started to say something and that is where we quit, as I recall. Do you recall that?
A No, I do not recall.
Q You said at one time—
A Oh, you asked me an opinion, I think, and then the Board went into a long discussion.
Q Into a long one?
A Yes.
Q Did you say something about Mr. Finnegan? I think while you were arguing the case he said something to you about the McSorley case.
A Oh, yes, I quoted Secretary Finnegan as to stating that the Board should not make their opinion where the mater was before the courts. I had said that was at the January time. Of course, it was not. It was at the September matter of the Board of Pardons on the same case.

BY CHARIMAN TOMPKINS:

Q The statement was made, as I understand it, but it was at a different term than what you had referred to?
A Yes, sir.

BY MR. KOHN:

Q In other words, the first time the case came before the Board they asked for a pardon while the cases were pending on appeal before the Superior Court. Is that right?
A Yes, they asked for a pardon both times.
Q And the argument Mr. Finnegan made was that they were not going to act as an appellate court while the cases were pending and he did not think they should listen to a petition for pardon. Is that correct?
A Oh, he said that, too. What I talked about before was that he did not think the Board of Pardons should go into the question of guilt or innocence once the jury had decided and the Upper Courts decided. He advanced that thought, too.
Q On page 136 of the testimony, when Mr. Bell was questioning—
CHAIRMAN TOMPKINS: Just a trifle louder, Mr. Kohn.
MR. KOHN: Oh, certainly.

BY MR. KOHN:

Q On page 136 of the notes of testimony of February 27, 1957, I asked the question:
"Do you recall one particular question that was asked by a Member of the Pardons Board that is not recorded in here?
A "Well, there were many, but I do recall particularly the one by Mr. Finnegan where he said how can we substitute our judgment for the local Court and Superior and Supreme Court."
Is that what you said at that time?
A Yes, that is where I said that, and that refers to the September hearing and not to January.
Q There were two hearings on this; were there not?
A Yes.
Q And I think the record will show at the time that question was asked, this record was not transcribed; that it was in the hands of somebody else and had not been transcribed, but it is transcribed now.
Did you look at the reasons given by the Board of Pardons for commutation in the McSorley case?
A Yes, sir.
Q And what did you have to say about those?
A Well, particularly where they state that, "At the time of trial the feelings of the citizens of Delaware

County was such that the court and jury were undoubtedly influenced by the attitude of the general public," that is not a correct statement. There was no evidence anywhere in the trials of the case as to any influence on the Court or the jury; no evidence anywhere at all in the trial of that case. It was not among the six reasons given in the application for pardon. It was not in the brief filed before the conclusion of the first hearing before the Board of Pardons, and it was only mentioned, and I think I mentioned I said it was mentioned in passing, and its was mentioned in passing at the first hearing where Mr. Trescher said that he felt there must have been some attitude or something that had something to do with the jury. I mean he made a similar statement to that which was not fact or it was not argued or it was not labored. So, I say that there were no facts before the Board either in the application or the statement concerning the influence of the Court and jury.

I further would call your attention to the second hearing, the 18th, of which I read the testimony as it is transcribed and there was no mention of influence of the Court and jury there.

Q Was that argument ever made to the Upper Courts on appeal?

A Oh, no; it wasn't at all.

Q In other words, that was something that had not been mentioned prior to the time of Mr. Trescher's address to the Pardons Board?

A No, it was never mentioned. I think I said the last time, I don't think it was ever mentioned unless it was mentioned in passing, and I do find it was.

Q There is nothing else in the record that would justify such findings of fact as you know of by the Board of Pardons?

A No, sir.

Q Except the statement of counsel; the unsubstantiated statement of counsel in passing?

A He just said that he felt it must have.

Q You received a great deal of testimony in regard to Mr. Kraft submitting a letter as to his opinion in this case. Have you obtained such letter from Judge Ervin who is now a member of the Superior Court—

A Yes.

Q —in regard to this matter?

A Yes, I directed a letter to Judge Harold L. Ervin, Superior Court, calling his attention to Mr. McBride's statements that Judge C. William Kraft had indicated to him that these men were innocent and I asked whether there was any expression that Judge Ervin had to make and he did write me a letter which I have the privilege of giving to the Board if they desire it.

CHAIRMAN TOMPKINS: Will you have that marked as an exhibit?

MR. KOHN: Yes, sir.

Letter dated March 6, 1957, addressed to J. Harold Hughes, Esquire, First Assistant District Attorney, from Judge Harold L. Ervin, produced, marked for identification and received in evidence as Committee Exhibit No. 28. NPK 3-28-57

MR. KOHN: Does the Board desire me to read it in evidence?

CHAIRMAN TOMPKINS: Yes, let us have it read.

MR. KOHN: This is on the stationery of The Superior Court of Pennsylvania, Judges' Chambers, Media, Pennsylvania, March 6, 1957; addressed to J. Harold Hughes, Esquire, First Assistant District Attorney, Court House, Media, Pennsylvania:

"Dear Mr. Hughes:

"I have your letter of March 4 reinvestigation of the Penna. Board of Pardons concerning, inter alia, Com. v. McSorley et al., Nos. 259, 160 November Sessions 1952.

"In this letter you state that Attorney General Thomas J. McBride, at a hearing on February 27, 1957, testified that he had spoken to Judge C. Wm. Kraft and that the letter authorized him to say that he believed the defendants were innocent. Judge Kraft was counsel for the defendants at the trial before me. You also state that my belief as to the innocence or guilt of these defendants is important to the matter under consideration. You further ask me to express an opinion so that it may be made available to the committee.

"I am of the opinion that these men were guilty of the conspiracy charge as well as of the charge of riot. I am also of the opinion that there was adequate evidence produced at the trial of the case to justify submission to the jury. The Superior Court was of like opinion. See Com. v. McSorley, 174 Pa. Superior Ct. 364, at page 639. In this connection I quote from my opinion of March 30, 1953 dismissing motions in arrest of judgment and for a new trial, as follows:

" 'Finally it is argued that the verdict is against the weight of the evidence. The evidence was overwhelming that a riot had occurred on the site of the old jail property on the afternoon of July 28, 1952 somewhere around 1:45 to 2:00 o'clock. It was conclusively proved by a number of witnesses that a gang of men ranging ing in number from thirty to sixty rushed onto the property of the County of Delaware within the very shadow of the Court House and ruthlessly attacked and beat up the men who were there lawfully engaged in excavating for the new addition to the Court House. They rammed crow bars through the radiators of motors, threw stones through the windshields of trucks, broke spark plugs out of motors, tore out the wiring of motors, threw dirt and gravel into the parts of the machinery and the gas tanks of the machinery and motors, shouted in loud tones of voice "Kill the bastards" and took the law into their own hands in no uncertain manner. They wrought great destruction to property and injured a number of employees by this cowardly, dastardly attack. As to these five defendants, the only question was whether they took part in this affair. It was testified to by Chief of Police Laughead that each one of these men admitted to him that they came here for the purpose of making sure no work was going on. All of them were members of the same local union of the Automotive Engineers. The entire attack required only ten to fifteen minutes. Then the mob ran to their waiting automobiles and made their escape. One car was caught about six blocks from the scene of the crime a few minutes after the commission of the crime. These five defendants, by their own admissions, were present at the scene of the crime or a few feet from it. They volunteered on the call of the business representative of the union for this service. Much of the proof of the commission of the crimes is given by the defendants themselves. Four of the five were identified by an eye witness and one of the five by two eye witnesses. They were seen in the jail premises

throwing stones, cursing in loud language and, in general, taking part in the riot. If there ever was a case for the jury, this was it.'

"May I say further that these men were represented at the trial of this case by extermely able and competent lawyers, C. Wm. Kraft, Jr., now a Federal Judge, and Robert L. Trescher. On the appeal before the Superior Court they also had associated with them Sidney L. Wickenhaver, C. Brewster Rhoads and the firm of Montgomery, McCracken, Walker & Rhoads. I believe that everything possible was done by these very able lawyers to protect their clients in both the lower and appellate courts. I further believe that the defendents had a fair trial.

"You are authorized to present this letter to the investigating committee.

"Very truly yours,

/s/ "Harold L. Ervin".

BY MR. KOHN:

Q Now, what commutation did these men receive that you know, Mr. Hughes?

A They served six months.

Q Out of a two year sentence?

A That is right.

Q And what effect would you say, if any, that their commutation, considering the crime in which they were involved, had on the county and citizens of Delaware?

A Well, it was the topic of conversation around all the enforcement officers. They did not like it and expressed their opinion that it was wrong. The general public talked about it likewise.

Q The matter of law enforcement in this type of case had a great deal of enmity and concern to the public.

A They were very much concerned about this group, both before and after conviction because the associates of these men had done similar jobs at other parts, but they did not strike anyone at the other places. They were in ditches or constructive buildings and were able to run. In this case they were caught like rats in a trap in the jail yard and they could not get through to get out at one end. Only one man was beat up. He was quite beaten from head to foot. He said he felt like a football. Another fellow was struck on the heel with one of the stones or rocks or something, but that was the only injury. I might call your attention, because the Board uses the same language, they call it an unruly group that did some minor damages. That is in their application; it is in the Board's opinion. Of course, the evidence was not that at all.

Q The Board did not say anything about them beating up these men?

A No, the Board's opinion takes in all of the matters in which they said they were just merely doing picket duty and they denied having anything to do with it, and they were boys of good reputation. They had character witnesses at the trial. I mean, that was nothing new; they had good character witnesses at the trial, and they followed generally the thoughts of the application.

Q Did you read somewhere that after or before the trial that these men, through the union, had two investigators working for them and one of the Commownealth's witnesses?

A This was after the trial and while an allocatur was pending to the Supreme Court in the case in chief. They had two investigators who attempted to say that one of the witnesses, an unwedded Negro, had said that he was in jail and was forced to identify, and a whole rigmarole such as that. That application for new trial for after-discovered evidence was before Judge Toal who, in his opinion, said these investigators failed in the extreme to prove that and he did not believe them, and the reputable testimony was thus and so. That went to the Superior Court with an allocatur to the Supreme which was not successful. In fact, we were at the Board of Pardons on Septmeber 15, 1955, and on October the 3rd, the Supreme Court refused the allocatur, and on the 10th the boys were in jail. On the 10th, Mr. Trescher had a brief saying that they were in jail and that there was no reason why the Board could not decide something on it then. On 11-16, we got notice it was refused. That was a month and six days after Mr. Trescher sent the data that they were in jail then.

MR. KOHN: I am finished on those case for now.

THE WITNESS: You are going to let me continue until I get away from here, are you not?

MR. KOHN: Oh, yes.

ATTORNEY GENERAL McBRIDE: I have some questions.

BY SENATOR YOSKO:

Q How long have you been in the District Attorney's Office, sir?

A I am in my sixth year.

Q In Delaware County; sixth year?

A In my sixth year.

Q During that period the operation of rackets in Delaware County has been pretty widespread, hasn't it?

A No, sir.

Q You say it hasn't? I have here a list of cases of State Police raids that were made for the period 1950 to 1956. I think it involves 286 cases, just raids by the State Police. Why don't you take a look at them? If that isn't widespread, I don't know what is.

(Witness was handed list of raids).

A You are thinking one thing and I am thinking another, sir.

Q Well, I am thinking of the operation of rackets in Delaware County. There are 286 cases there. I am not trying to defend Michael Caserta, but may I ask you whether he was a carpetbagger in Delaware County?

A He was the man who was doing the big lead in Delaware County at that time. When I say "rackets" I am speaking of a large group or a syndicate. You are speaking of single arrests on some small crime.

Q I do not know how small they are because I cannot identify them. I only know that there are names there of persons who were arrested in raids for gambling, lottery, and that is confined to that. They are not other criminal cases. From the record I see here of Michael Caserta, he is a Philadelphian. Is he not?

A Yes, sir.

Q He came over to Delaware County and he operated there?

A He operated there quite some time.

Q That would make him a carpetbagger, so far as

I am concerned; moving from one territory to another. Now, who made the raid, who made the arrest that brought Mr. Caserta before the Delaware County Court?

A The arrests were made in conjunction with the District Attorney's Office and the State Police by Corporal Urella in Media.

Q But by the State Police?

A My dear sir, I said in cooperation with the two of them together.

Q How long was Michael Caserta operating in Delaware County before the State Police made the raid?

A I understand it was quite some time. It might be a year.

Q Why didn't the District Attorney's Office stop Michael Caserta or arrest him for operating rackets before the State Police came in?

A My dear sir, the District Attorney's men and the State Police were together in citizen's clothes, watching this thing together.

Q On the raid?

A No, on the gathering of the evidence. This was what we call a trellis case. These sellers would come and put their sales up in a little bag in a trellis with a vine on it. They watched them for several days and they watched for a couple more and they were trying to get the pickup man.

Q Are you telling me now that the District Attorney's Office and the local police do not know when rackets are operating within their jurisdiction?

A I do not say that to you, sir.

Q Well, then how could they be operating for a full year before the State Police grabbed them, without the knowledge of the local police or the District Attorney's Office?

A After you make an arrest you may find out something that you just heard or did not know.

Q Did the District Attorney's Office request the State Police to come in and help to make this investigation on this raid?

A I do not think I could answer that. I think that at that time they were cooperating together, working hand-in-hand, which we do.

Q I will try to find that out from the State Police. Now, I would like you to take—I am just making a comparison of sentences. One racketeer is just as bad as another racketeer.

A Well, it cannot be that.

Q That is my opinion.

A All right.

Q These are not cases that the local police made. I do not know how many more you would add to this group, but I say rackets operating in Delaware County is widespread. I would like you to take a look at this list, and outside of the sentence of Michael Caserta, I want you to point out to me any sentence that was meted out that was comparable to the one that was meted out to Michael Caserta. I seee on here cases involving guilty pleas, people who were found guilty and sentences anywhere from just a common fine to anywhere from a month to nine or ten months in jail. I want you to show me one sentence that is comparable to the one that Caserta got. There may be one on there, I do not know.

A I would be more helpful if you would point out to me someone here who was of the same caliber as Michael Caserta. It might help.

Q I do not know. As I said before, to me a racketeer is a racketeer; a gambler is a gambler.

A Well, I have attempted to point out to you— now please do not misunderstand me, I am not trying to argue with you. I have attempted to point out that Michael Caserta was in a class by himself. I call your attention also that Judge Bretherick testified the other day to four or five more who were big and got heavy sentences. You must erase from your mind that you do not take ten men charged with lottery and the sentences are all the same; no matter if you take ten charged with larceny, they may not be all the same.

Q In order for me to make that determination I would have to have the previous records of every defendant on there. I have the record here of Michael Caserta. He was arrested seven times and from what I have here it started in 1946. He was arrested for maintaining a lottery, pled guilty before Judge McDevitt, and he was fined fifty dollars. He was arrested again on a disorderly conduct charge and illegal lottery, but was discharged by the magistrate on both charges. On March 27, 1949, he was arrested for violation of the Liquor Control Act, serving drinks to intoxicated persons. He came up before Judge McDevitt, waived trial and was found guilty and fined $300.00. May 15, 1950, was arrested for corrupt solicitation. He came before Judge Levinthal, found not guilty. He was arrested on a lottery charge, demerit to the evidence sustained. On September 28th, given six to twelve months and eleven to twenty-three months to run consecutively on the charges in Delaware County. So, just on this record here, and that is all I have before me, I have no way of telling whether he was a big operator; this would not indicate so, or whether he was a small operator or what he was and because they do not have the records of all the other defendants on here I cannot compare them. I say a racketeer is a racketeer.

I would still like for you to point out to me whether the Judges of Delaware County gave any of those racket people that were arrested in those State Police raids, sentences comparable to the one that was given to Mr. Caserta because I am assuming those factors were taken into consideration by the Pardons Board when they came up for sentence; I do not know.

CHAIRMAN TOMPKINS: Well, let us not assume a fact of that kind unless we can establish it.

SENATOR YOSKO: Well, let me—

THE WITNESS: Unless you give me the records of those men, I cannot tell you, Senator Yosko. I cannot give it to you.

BY REPRESENTATIVE LOPRESTI:

Q I might suggest that Mr. Hughes, being the District Attorney of Delaware County—

A First Assistant District Attorney.

Q First Assistant District Attorney. Well, you had been District Attorney, had you not?

A No, I have been Assistant.

Q Well, being First Assistant District Attorney, you probably know more about the people on that list than any other person in this room?

A It would be out of the question.

CHAIRMAN TOMPKINS: What he wants to know is how many of those might be carpetbaggers, too.

REPRESENTATIVE LOPRESTI: That is what I mean. You ought to know more about that than we would.

SENATOR YOSKO: You can ask questions when I am through.

BY REPRESENTATIVE BELL:

Q Were you Assistant District Attorney during the period covered by the figures given to you by Mr. Yosko?

A I went in in 1952. This starts with 1950.

BY SENATOR YOSKO:

Q Well, you say you were in for six years and that would make it—this is 1957 and six years would make it 1951.

REPRESENTATIVE LOPRESTI: Let's not quibble about that.

THE WITNESS: Two, three, four, five, and six. This is my sixth year.

BY SENATOR YOSKO:

Q There has been a summary made of that, Mr. Assistant District Attorney, and from what I have here there was thirty-one discharges, twenty nol prosses, eighteen found not guilty, ninety-nine of them were just fined and got no jail sentence at all, and 101 of them got a fine and a sentence out of the 286 cases. I would like to know why there is such a variance in the sentences that are indicated there?

A Every case must be decided upon its own facts; its own background. The sentence sufficient to deter that person, the sentence sufficient to deter a neighbor, past record, the type of man he is, and those things are taken into consideration by a Judge. I have tried to show you that Michael Caserta was of the large scale; he was also one of these kinds who went personally himself to the wife of this witness and said that he would kill that husband of hers; gave her fifty dollars to get a lawyer to go to the jail to tell him to pull off. So, you are dealing with a different man. You just cannot line them up and say they are all the same.

BY REPRESENTATIVE LOPRESTI:

Q Was that before the Board, what you are telling us now?

A No.

RECROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q That occurred after sentence?

A Sir?

Q It occurred after sentence?

A No, before the trial. After he was arrested and before trial he went personally to Mrs. Hampton.

FURTHER REDIRECT EXAMINATION

BY SENATOR YOSKO:

Q Would this record here that I just read indicate to you that he was the type of person that you are describing?

A Yes,—corrupt solicitation.

FURTHER RECROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q What was the result?

A It does say here May 15, 1950, arrested for corrupt solicitation; not guilty before Judge Levinthal. You see, this man—before the Board of Pardons his lawyer even argued; now he said in Philadelphia the District Attorney never asked for a sentence in lottery until after the fourth offense. That, apparently, is rather silly as far as we are concerned. This man was arrested for counterfeiting; he was found guilty for counterfeiting. He was turned loose many times by the magistrates. He just did as he pleased for twenty years from the age of twenty to age forty. That is the type of man I am trying to describe to you. I do not know whether these other men are the same type.

I did have one here, John Cureton which is a name I have known for a long time, even before I was in the District Attorney's Office.

FURTHER REDIRECT EXAMINATION

BY REPRESENTATIVE LOPRESTI:

Q Well, why don't you tell us about him? Do you have it there?

A Sir?

A Do you have it right there?

A Yes, Cureton in 1950 tried to come out with lottery tickets; plea, guilty; $500 and eleven months, Judge Toal.

Q Now you say you have known him for a long time, even before you were in the District Attorney's Office?

A Yes, I have know of him. He is from Chester. He has always been a petty gambler of some kind, but consistent.

Q You mean all the time?

A Yes, in and out of some kind of trouble. Now here is Claude Murray who is one of the fellows—This is Claude Murray, in the fourth month, 7-51, and he is one of the fellows who was arrested at the original trellis arrest. He got two months on 4-7-51 and got $300 fine and two months. In 1952 he got four months and $400 fine.

Q Was he constant offender in your county?

A Yes. Since 1952 he got at least a year or maybe more.

Q Prior to that, how many times would you say he was arrested, prior to the date of this particular sentence we are talking about?

A I recall—

Q Had he been there quite often?

A I recall at the time of the trial, and I did try these cases in 1952, and by the way Judge Kraft was on the other side then, too, and it seems to me that he had one conviction before that which probably is this one. That is just memory.

BY SENATOR YOSKO:

Q I would ask just one more question. I want you to look it over, and would you tell me after you look it over whether the sentence meted out to those 286 defendants were out of line with the sentence that was meted out to Mr. Caserta?

A Whether these were out of line?

Q Yes.

A My dear sir, my opinion would not be worth anything on these cases without I knew the entire facts of it and those things which I mentioned which I think the Judge considers.

Q The only thing I want you to do is see what sentences those defendants got and tell me whether they were far less than the sentence given to Mr. Caserta or whether they were not.

A They are less; those that I have come to. As to why, my opinion would not be worth a cent without knowing the cases.

Q Thy are racketeers. That is all I know. They would not have been raided and they would not have been arrested and they would not have been tried or they would not have pled guilty to the same charges that Mr. Caserta either was convicted of or pled guilty to.

A You certainly do not class Caserta with these small fries.

Q I do not know whether they are small fry.

A I have told you they were.

Q I do not know whether they are small fry.

BY MR. KOHN:

Q You do not include those racketeers in those bawdy house raids, there, do you?

A In our bawdy house raids? We do not have any bawdy houses down there and haven't for years.

Q This report says they are operated by the racketeers.

SENATOR YOSKO: These are all gambling cases.

MR. KOHN: You did not look at it very closely, Senator Yosko.

BY REPRESENTATIVE BELL:

Q Mr. Hughes, do you know the maximum sentence a man can get for lottery or gambling? It may be what?

A I would say in Caserta, for lottery he could get six to twelve; for a conspiracy he could get twenty-four He could have gotten thirty months and got seventeen minimum.

MR. KOHN: Any other questions?

CHAIRMAN TOMPKINS: Well, I find sentences listed on this analysis here running up to twenty-three months.

SENATOR YOSKO: That is Caserta.

CHAIRMAN TOMPKINS: I do not know whether it is or not. Caserta's sentence is seventeen to thirty-five months and he could have gotten thirty.

SENATOR YOSKO: Another one from eleven to twenty-three I think is on there.

CHAIRMAN TOMPKINS: Two weeks to eighteen months, another.

SENATOR YOSKO: I think next to the last page there.

THE WITNESS: I say he got eleven to twenty-three and six to twelve, consecutively.

FURTHER RECROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q It is your view that he could have gotten a flat sentence from the conspiracy?

A Yes.

Q Doesn't it provide either for a simple imprisonment and separate and solitary confinement?

A I think it does; yes.

Q Therefore, doesn't the statute make any offense which can be punished by separate solitary punishment only punishable by a minimum and maximum?

A In that it says "or." You can get solitary or simple imprisonment.

Q Hasn't the Superior Court interpreted that act as follows: That since the offense can be punished; that is, if it is punishable by separate and solitary confinement, there must be a minimum and maximum?

A That was argued in one of our cases. I do not know which one it was, but the Judge said, "I will give you what you want," and he made it minimum and maximum.

Q That was a Commonwealth's—

A I am not familiar with that.

Q I will not press the point here. To what institution was he sentenced?

A Delaware County Prison.

Q Has Delaware County been capable of receiving separate and solitary confinement cases?

A I do not think so.

Q Well, then, that part of his sentence is illegal, wasn't it?

A I don't say that.

Q You don't say that it was or wasn't?

A No.

Q In any event, it is quite true there were two counts; one, the violation of the lottery law, and the second, the conspiracy to violate the same lottery law?

A That is right?

Q So that he got punished here for the agreement to commit a crime and the actual commission of the crime?

A He did.

Q Double punishment for the same—

A That is not what the Courts hold.

Q They do hold that it was double punishment, but they do not hold it is unlawful. I am not saying that the fact he was punished for the conspiracy and the subsequent offense separately, is unlawful. I am not taking that contention. I am saying it is a fact that he agreed with somebody to commit an offense and then committed it and he got punished, first, for the agreement and, second, for the commission?

A He was here; yes. That was decided, what you are talking about, in a case by Judge Kraft in Hampton's case.

Q It is not usual, is it, to superimpose a sentence to run consecutively for the conspiracy in addition to the punishment meted out for the subsequent offense?

A Yes, it is.

Q Is it? It is a fact, isn't it, the thing that transformed Caserta's sin from a venial one into a mortal one was the fact that he was from Philadelphia?

A I would not think so.

Q You would not. Didn't he, the Judge; didn't you, yourself, make a point of the fact that he was from Philadelphia?

A I probably argued it. Yes, I suppose I did.

Q It is a fairly good argument in Delaware County?

A That is right.

Q And you used it?

A Yes, I suppose I did. I would not say I did.

Q Now, when you appeared here, Mr. Hughes, you were under oath just as you are now, and you told us that the trial Judge was Judge Toal. You were wrong about that, were you not?

A Judge Toal tried a part of the trial of the—he tried all of Caserta and part of McSorley. He did the writing of the letter in McSorely because Judge Ervin was on the Bench.

Q That is not the question I asked you. Let me ask this question:

"Do you know whether the Judge who tried the case also opposed the commutation?

Answer: "He strongly opposed it.

Question: "What was the Judge's name?

Answer: "Judge Toal."

Q You were wrong on that, were you not?

A Judge Toal was the man who wrote the letter, the Judge who wrote the letter. He is the man who tried part of it.

Q He tried the case?

A Yes.

Q Did he impose the sentence?

A The original case was tried before Judge Ervin. That is no secret.

Q Why didn't you tell us it?

A I answered the question there, sir. When they applied for a new trial, it was before Judge Toal, and Judge Toal is the one who wrote the letter to the Board of Pardons.

Q When you were here last time, you were quite sure of your position, enough to criticize the official transcript of the Board of Pardons made up by the official court reporter. You looked it over and you told this committee that it was not complete; did you not?

A I did.

Q You were wrong about that, weren't you?

A No, I was not.

Q The transcript was complete, was it?

A I say it was not complete.

Q You said it was not complete?

A That is right.

Q You were talking about the January 18th hearing?

A Yes, we were.

Q And you said it was not complete?

A That is right.

Q And you said the respect in which it was not complete was that at that hearing, you said, in answer to the following question:

"Do you recall one particular question that was asked by a member of the Pardons Board that is not recorded in here?

"A Well, there were many, but I do recall particularly the one by Mr. Finnegan, where he said how can we substitute our judgment for the local court and Superior and Supreme Court?"

And then later you said, in answer to the following question:

"Is that a complete transcription of the arguments made by both sides?

"A No. sir, I am sure it is not."

Were you telling the truth then?

A Oh, yes, sir; yes, sir.

Q Well, then how do you expain the fact that Mr. Finnegan did not even sit up on that Board in January?

A My dear man, I have already corrected that by saying that it was at a different time. I don't do Mr. Finnegan any harm. He spoke along that line and said that and it was in September. I do not find fault with him for saying it either.

Q You did not correct it on that day; did you?

A I did not know it until I found the newspaper had gotten it from somebody.

Q And called you on the telephone?

A Yes.

Q Told you all about it?

A Yes.

Q Did you write a letter to the committee and try to correct it or anything like that?

A I certainly did not, but I told Mr. Kohn about it.

Q When?

A It was probably when I talked to him on the phone, I think.

Q When?

A It may have been a couple of days or more after it happened.

Q After you learned about it from the Evening Bulletin?

A Yes.

Q Now you said as the result of the action of the Board of Pardons, there was a breakdown of law enforcement and there was another riot in the Westinghouse case.

A At that time—I think in answer to the first part of your question, I do not recall saying that; not in that purport, I do not think.

Q Let me withdraw the first part and direct you to the question:

"Have there been any riots resulting in damage to property in Delaware County since these defendents had their sentences commuted?"

The answer is "Yes.

"What were they?

"They were widely known as the Westinghouse riots."

Now, the riot of which you speak—you tried that case; did you not?

A Didn't I say they were riots—

Q Yes, I read riots.

A I recall a riot case which you and I tried—

Q Yes, and who is attacking the jury's verdict now? What did the jury say as to whether or not this was a riot?

A The jury found the men not guilty.

Q But you still say that was a riot?

A My dear man, from the time that case was even opened until the middle of the Summer, there were still riots there. The people were still in terror there.

Q In that long labor dispute?

A Yes.

Q Well then, how can you lay that to the action of the Board of Pardons?

A I did not. They asked me a question whether we had any riots after that and I gave them my opinion.

Q Now, you point out that the Board of Pardons in the Caserta case disagreed with the trial Judge, and in the McSorley case it disagreed with the trial Judge.

A I do not know whether I pointed out, but they did; yes.

Q Have you ever disagreed with trial Judges?

A Sure.

Q Have you ever made recommendations to the Board of Pardons in contradiction to that made by the trial Judge?

A No, sir.

Q Do you always follow the trial Judge's recommendations?

A No, that is not the answer. I was rarely ever before the Pardons Board.

Q Have you ever made any recommendations before the Board of Pardons?

A I have asked to have sentences lessened and commuted; yes, sir.

Q Now, doesn't your testimony amount to this, merely that the Board of Pardons disagreed with you and with the trial Judge in the case of which you spoke?

A Which case?

Q The McSorley case.

A My objection to them, to their findings, is that they found it on something that does not exist and that is it.

Q You mean it was your opinion it does not exist. That is the way you state it, isn't it?

A Well, let me state it this way. I say there was no record, no facts upon which to base any opinion that the Judge and jury were influenced by the populace there. That is my statement.

Q Was there any publicity given to Caserta?

A A lot of it; sure.

Q It was normal that it happened when the trial was going on.

A Yes.

Q I am not saying it is wrong, but haven't you found that when there is a lot of publicity and talk about a case, it is apt to find its way into the jury box?

A That can happen, but where you have a man like Judge Kraft, I would say my recollection is that he inquired of the jury whether or not they had any opinions based on the publicity.

Q After the verdict?

A Oh, no, my dear man.

Q And he asked them whether they had any fixed opinion as to their guilt?

A My recollection is that he did.

Q Do you find many juries, in such cases, where they admit they do have fixed opinions of guilt and it would be beyond their capacity to give the defendent a fair trial?

A Rarely. Rarely.

Q So that that kind of a question is not usually very helpful, is it?

A I would not agree with you that it not helpful; no.

Q If you find rarely that the jurors admit that they are so prejudiced that they cannot give a fair trial, why would you not agree that it is likely that there is some prejudice in a celebrated and well-publicized case?

A My answer to that would be this, that something happening in Media would be in the Chester paper and the Media paper. It might not be in the Upper Darby paper. There is not any one read clear through. You might have a big group of jurors from one end of the county or the other end and, as you know, the question on drawing jurors it is very surprising that they do not know anything about the case; very surprising.

Q Mr. Hughes, how did you meet the argument that Chief Laughead examined these men minutely upon arrest shortly after this occurrence as to shoes and clothing and he found no evidence of any of the debris that had been thrown around this demolished jail house?

A How did I meet it?

Q Yes.

A They ran in there and they ran out. If their feet sunk to the soles, a stamping would cover that. What Chief Laughead did, he looked at the soles of their shoes, everyone's soles. He had one of them take one of their shoes off. He looked at their hands, they held them out, both sides, and he found no evidence of dust which could have been there if they sank deeply enough into it. There was a lot of it on the side and the center was clear for trucks to go in. That did not impress me at all; it did not impress the jury; it did not impress the Court.

Q How many of them were there?

A How many what?

Q Men. Five?

A Five. There were—

Q They all did not run down some path in which there was none of the debris?

A There was from thirty to sixty all told.

Q Weren't the others arrested?

A They did not catch them.

Q None of the others were arrested?

A No, and the Board of Pardons has the funniest reasoning here, too, on that that these men are bearing the brunt—somewhere, I think here—of the other thirty or sixty, which does not appeal to me as being—

Q You do not agree with that?

A Well, it does not appeal as being a reason, when they said, "As this applicant"—and they are probably speaking of all of them,—"and his accomplices were the only persons who were arrested, they bore the burden of the resentment of the community."

Q That does not make any sense to you?

FURTHER REDIRECT EXAMINATION

BY SENATOR SCOTT:

Q General, may I interrupt for just a minute.

While you have the reasoning of the Board there, did the Board specify as a reason the innocence or feeling of the innocence of these men?

A Let me put it this way. I am not begging your question either. The innocent was—well, that was put up both times.

Q Well, we had Attorney Trescher here yesterday and he told us what he told the Board about his feeling of innocence and went through the various particulars that he pointed out to the Board, which General McBride is questioning about now. But I am questioning as to whether the Board used as a reason the fact that they, too, felt that there was innocence there. I do not think they did. I think they used the turmoil in the community, and so on, as a reason. Am I correct or incorrect?

A You are incorrect. The word innocence or not guilty appears no where in the opinion.

Q Right.

A But, in fairness. I must say that they repeat all of the things on the side of these men wherein they say they came to do picket duty; they were an unruly group that damaged some property. They arrived after the riot and they denied stoutly at all proceedings that they were involved. That is not true, of course, because while they first said, "We do not know anything. We did not even stop in Media. We do not know what is going on. We did not do anything," then they later admitted, when

they got them each separately, that they did come down there, that they were paid to come down, that they were part of thirty or sixty men. They did get as far as the entrance; they did run and get in their cars, and that they were going the opposite direction. They were going west instead of east to Philadelphia. So, while there is not any innocence here, they are following the argument of these boys. Does that answer your question?

SENATOR SCOTT: The reason I asked the question, you were going along the line of questioning as to how he met the argument of dust on the feet and not dirty hands and that sort of thing, and to me it was not pertinent because the Board did not decide it, as I read the reasoning, on that ground at all, as to the innocence or non-innocence of the men. They decided it upon something else, which was the atmosphere in the community.

ATTORNEY GENERAL McBRIDE: It might be, but when a Board states its reasons and compresses them into a single page, you could hardly expect them to mention everything that is in their minds, particularly after one hour or one hour and a half argument.

SENATOR SCOTT: Well, isn't the feeling of innocence by the Board of such importance that if they did feel that way, they certainly would mention it even if it was in a sentence and not a paragraph? I would think so.

ATTORNEY GENERAL McBRIDE: Senator, my own view is that as Mr. Justice Bell said that either a conviction that the man is innocent or a very grave doubt of guilt, particularly where the man has served a substantial part of his sentence, all elements are considered by the Board of Pardons. Now, I do not know why innocence was not mentioned, but I agree that maybe it is not particularly pertinent whether Mr. Hughes successfully met it or not.

SENATOR SCOTT: I do know that Attorney Trescher made a great point of it before the Board of the innocence of the men and so stated yesterday.

THE WITNESS: May I just say that in this same article, and Mr. Trescher quotes it, by Mr. Justice Bell, he states: " 'The word (commutation) is a term of art and means, and long has meant, the change of one punishment for another and different punishment.' Commutation and parole presuppose that the person is guilty of the crime for which he is convicted and that he should be punished." So if they are commuting, the Board is saying they are guilty and that is on Justice Bell's—

ATTORNEY GENERAL McBRIDE: I agree, at least, that we are not passing on the question of innocence.

MR. KOHN: You are giving the legal interpretation rather than getting along with this case.

SENATOR SCOTT: I made the interruption, Mr. Kohn, because I was interested.

FURTHER RECROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Let me ask you this, Mr. Hughes. Was there any corruption on the part of the Board of Pardons that occurred in either of these cases, Caserta or McSorley?

A Mr. McBride, I know of no corruption. I have not intimated—as I said before, I do not know what prompted them.

Q Do you know of anybody who discussed this in advance with the Board or any member of the Board?

A Only what I heard here by Mr. Trescher and Mr. Lavery or somebody. I know nothing about that; nothing, I make no accusation.

Q Now, you got notice of the application in both cases?

A Yes.

Q There was someone from your office present at the hearing to register your thoughts?

A I was to both in the McSorley case.

Q I mean you were definitely willing to give your objections. You were not caught short or prevented from speaking?

A Oh, no. We talked for an hour and a half, which prompts me to say that that transcript, a few pages, doesn't have all of that in there.

Q That is what you base it upon. Would you mind pointing out anything which is not in there?

A Yes, I can point—

Q This is the January transcript.

A In—January, in asking, in attempting—I will not use the word mercy, but in asking for it, Mr. Trescher was pressing that this was an outlaw group that had gotten ahold of the union and they were running high, wide and handsome or something similiar to that, and that they had now ousted Underwood, I think it was, who may be the same man who is before the Federal Court now on something,but those two things were mentioned. Everybody on the Board, I think, had something to say about it.

Q Now, you have sometimes recommended clemency to the Board of Pardons on commutation, have you not?

A The office has, yes. I am not begging your question either, but the office has.

O All right. I understand. That is all right. Now, are you familiar with the fact that in the two years that the present Board has sat, it has been more rigorous in the granting of executive clemency than either the Judges or the District Attorney of Delaware County in their recommendations?

A No, I am not, sir.

Q Do you contend that the Board in the last two years has been less rigorous; that is, that they have granted more applications for clemency than the Judges or District Attorney went along with?

A I do not know.

ATTORNEY GENERAL McBRIDE: I think that is all.

FURTHER REDIRECT EXAMINATION

BY MR. KOHN:

Q Are you familiar with the case of Louis Devito?

BY REPRESENTATIVE LOPRESTI:

Q Pardon me, Mr. Kohn. I would like to ask a question or two on these other cases.

Mr. Hughes, if there was no animosity and no feeling running against these men prior to the trial, what would you say would account for the fact that you contend that there was bitterness after the pardon was granted, I mean the commutation was granted?

A I do not recall. Well, I do not think I said bitterness, but we will not quibble on the word. The fact that here these men come down here as labor goons and do as they please, right in the shadow of the courthouse, and dash down there and do what they did and then move

away. Even before the Board of Pardons had granted that, there was a general rumor that "You cannot put them in. You cannot put them in."

Q What I am getting at is, you have suggested that perhaps Mr. Trescher's argument of feeling in the community would not hold water or did not stand the test. When did the Court and the District Attorney's Office begin to refer to these men as "goons"? Before the trial or after the trial? Now I have heard them referred to here by the clerk, by yourself as goons and hoodlums and so forth. Now did you consider them goons before the trial or did you suddenly decide that they were goons after the Parole Board had acted?

A No, my brief on the first time it went to Superior Court calls them labor goons and gorillas. That was the word I learned after the trial and when they were first going to the Superior Court.

Q Well, don't you think that some of that feeling was prevalent in the mind of yourself and the Court and the general public even before the trial as Mr. Trescher had suggested?

A No, sir.

Q In other words, you just decided that they were goons after the trial and you did not have any opinion on that before the trial?

A I said that in my brief I named them as that. I had no feeling about them before the trial.

Q All right, then, but when did you get this feeling that they were goons? Did that suddenly come about after the trial?

A My dear sir, they were named as such. I had no feeling except that that is the term we used for these men, that is all. I felt strongly about them serving their time, yes.

Q You knew, did you not, that none of these men—at least I am taking for granted that Mr. Trescher's statement is true—had been convicted of anything before; that they had no long criminal records; none of the five?

A That was considered and that was argued at the time of sentence. Before the Board of Pardons there was nothing new received. That was considered at the time of sentence.

Q I am not questioning in that connection. I am questioning in the connection where a man who never was convicted of anything, never been at odds with the law, is not referred to as a hoodlum or goon, is he?

A You get your name by what you are particularly doing then. You may be a hoodlum for doing it once. As far as your reputation is concerned, people come in and say you are a goon and a hoodlum.

Q Do you think it is reasonable, where the men never had a record before in Delaware County, to arrive at that conclusion that they are goons, even before the trial determining that these men had done the particular crime that you describe as being so horrible? Don't you think there was some prejudice in the community?

A No, I do not think there was, sir.

Q If there was none before the trial, then when the Board of Pardons commuted their sentence, they all became indignant; people who did not care before the trial became indignant?

A They became aware of it, sure.

Q If they were not aware of it before the trial, they became aware when they were commuted from twenty-four months to six months?

A No, sir.

BY SENATOR SCOTT:

Q Do you feel that Judge Kraft is a reasonable man?

A Yes, sir.

Q Attorney and prosecutor?

A He is a very honest man and very capable attorney.

Q Is there anything in the laws of the Commonwealth of Pennsylvania that would exclude the attorneys from Delaware County from asking for a change of venue if they wanted a new trial?

A They have the right to ask for a change of venue if they so desire.

Q And what Secretary Finnegan said to them was in his favor, too. Did Mr. Kraft ask for a change of venue?

A Oh, no.

Q Judge Kraft is a very good lawyer, is he not?

A Yes.

Q Then there must have been no justification for a change of venue?

REPRESENTATIVE LOPRESTI: I was going to ask that question.

BY CHAIRMAN TOMPKINS:

Q You made mention in your testimony that you did not use the word "goons" until after it was first used. Who brought the word into the trial?

A I do not know. I may have read it in the papers. I say I use that in the brief that I filed on the appeal. Now the public—

Q Was the word "goon" or "gorilla" used by any of the witnesses during the course of this trial?

A Oh, no.

Q The words originated after the trial was over?

A That is right. No similarity to the trial. It was a sternly tried case. When you are against Mr. Kraft, you have got to try a stern case, and if you win, you are lucky.

Q Mr. Trescher, yesterday, spoke considerable about a witness whom he called to be somewhat illiterate. The creditability of that witness was called to the attention of the jury. I think the argument was that this witness could not be relied upon.

A What that was, and I am very familiar with it, I think he was a junk man who had the liberty to pick up iron where they were tearing something down. Mr. Kraft cut him off, and cross examined him severely and Judge Ervin called his attention several times to let him finish his answer and he was giving him a line. So, finally, Judge Ervin said, "You are not giving him a chance." Well, he said, "He was mumbling." And he said, "Look this man is honestly trying to tell the truth." Well that was the Judge's opinion then and that was one of the reasons he went up for a new trial.

Now, what Mr. Trescher was talking about, afterwards in Conshohocken, in Montgomery County, this same Negro had accumulated a lot of metal at the same Gleba Brothers and the other brother would not let him take it, so he sneaked in there at night and got it. They charged him with larceny and oh, I think, he served some time, maybe three months; something. Now that may be what

Mr. Trescher was talking about. But this fellow was this kind of a witness, he had identified three at a magistrate's hearing. Then at the trial, he identified one, two and a third one that he had not identified before.

Mr. Kraft said to him, "You are not identifying the same one are you." He said, "That one's sitting back in the audience." They had secreted one of their defendants back in the audience to get this fellow mixed up.

BY MR. KOHN:

Q That was argued before the Pardons Board?

A Oh, that was argued before the Pardons Board; we had a battle on that one every time we mentioned it.

Q Now, Mr. McBride made a great point of bringing out that when the Board of Pardons heard the case, when it was argued before it, that this fellow was a Philadelphia racketeer. I think you admitted that. Now on the other hand, the attorney for the applicant also argued the fact that he got four free chances in Philadelphia before he ever was sent to jail; did he not?

A Yes, I mentioned that.

ATTORNEY GENERAL McBRIDE: I don't think you can get four free chances.

MR. KOHN: That is what the attorney argued.

ATTORNEY GENERAL McBRIDE: How many convictions in Philadelphia did he get?

MR. KOHN: I don't know, I am just saying—

ATTORNEY GENERAL McBRIDE: Well, I will tell you, it is not a free chance unless you are convicted. The Judge does not have any jurisdiction to punish me if I am not guilty.

MR. KOHN: I do not know. I am just saying what he said here.

ATTORNEY GENERAL McBRIDE: It is a matter of simple arithmetic.

CHAIRMAN TOMPKINS: When he came before the Pardons Board, they did not know what was in his mind.

MR. KOHN: I would like to finish up with Mr. Hughes on one other case, but I do not like to start it now. It is up to you gentlemen.

(Off record remarks)

MR. KOHN: Monday will suit Mr. Hughes if it will suit you gentlemen.

THE WITNESS: Tell me what time and I will be here.

MR. KOHN: Ten o'clock Monday morning.

CHARLES F. G. SMITH, being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q Your name is Charles F. G. Smith?

A That is right.

Q And you are a member of the Philadelphia Bar?

A That is right.

Q How long have you been a member of the Bar, Mr. Smith?

A Approximately eleven years.

Q And where is your office?

A Sixteen sixteen Walnut Street.

Q I think you are familiar with the fact that you had written a letter to Judge Bretherick which was mentioned and was read into the record here?

A Yes, sir; I am.

Q Concerning matters that you had handled before the Board of Pardons?

A That is right.

Q I think you are familiar with the fact that Mr. Finnegan introduced a letter you sent to him?

A Yes, I am.

Q Did you at one time also send Mr. Finnegan a letter signed by Joseph S. Clark, Jr., Mayor, introducing you to Mr. Finnegan?

A Yes.

MR. KOHN: I have a copy of that letter which I would like to get in as evidence.

THE WITNESS: That is a photostatic copy.

MR. KOHN: Will you mark that as an exhibit, please?

> Letter to Honorable James A. Finnegan, under date of January 27, 1955, from Joseph S. Clark, Jr., Mayor of Philadelphia, produced, marked for identification and received in evidence as Committee Exhibit No. 29. NPK 3-28-57.

THE WITNESS: This is on the official City Hall letterhead at the time Joseph S. Clark was Mayor of Philadelphia.

I want to say first that this letter should properly be presented for the record inasmuch as my letter to Mr. Finnegan has been incorporated in the record and in such a way that such letterheads as these have indicated that a very different purport was in back of them than was intended. I refer particularly to the last sentence of the first paragraph of the letter written to Secretary Finnegan on August 11, 1955. That paragraph reads:

"To date I have been consistently refused on about thirteen applications presented to your Board. It occurred to me that if the Board had any misconceptions about my partisan sympathies, it would be well to bring Mayor Clark's letter to their attention."

That was purported by me to mean that I was seeking political influence in the decision of cases and was so indicated in this article which I think, at least, is libelous in nature.

BY MR. KOHN:

Q You are talking now about a newspaper article?

A A newspaper article which appeared in the Philadelphia Bulletin on March 1st. The reason why this statement was very naturally made by Secretary Finnegan was because of this sentence which I just read to your Board. However, he neglected to point out that I had followed up this letter by a personal interview with him. He referred only to the interview to say that he had dressed me down, I believe, in that interview. It is quoted in the article. Actually, in that interview I attempted to explain to him what this letter meant. Apparently he had taken the wrong meaning also because he told me that he had never in all of his political experience received such a letter. I am quite sure that Secretary Finnegan at least was under no illusions as to my particular party identification as a Republican, because the whole purport of the letter, the whole text of the letter, if read as a whole, is a criticism of the Board of Pardons because of the fact that I had had—I just intended to offer my record and say nothing more—I

had success before the Board of Pardons of approximately seventy-five per cent on all other Boards. Before this Board I had received thirteen turn downs at that time. That figure, of course, has gone up to or did go up to a greater number before I stopped taking these cases as pointed out in a former hearing.

Q This letter we started to talk about, how does this fit in with this?

A I am sorry. Oh, yes. I wanted to give that background first to explain this statement. I refer first in this letter to this, in the letter of August 11, 1955, to this letter of introduction given me by Mayor Clark on January 27, 1955, to Secretary Finnegan. I would like to read that into the record.

"The Honorable James A. Finnegan,
"Secretary of the Commonwealth,
"State Capitol,
"Harrisburg, Pennsylvania.

"Dear Jim:

"This letter will introduce to you Charles F. G. Smith, Esq., who from time to time does some Pardon Board work.

"He was associated with my old law firm while he was a law student and we were in the China-Burma-India Theatre together during World War II.

"I would appreciate any courtesies you might extend to Mr. Smith.

"Sincerely yours,

"Joseph S. Clark, Jr.
"Mayor."

I would like to point out to the Board that this letter has no reference whatsoever to politics and that none was ever intended.

I feel that I should set forth here my general philosophy of presentation of cases before the Board of Pardons. This Board I believe is peculiar in nature and it is a quasi-judicial Board perhaps, but essentially it is composed of laymen and has for some years been composed primarily of laymen; the majority of whom have been laymen. It seems that their function, therefore, is not like a Court, but one which depends largely on the investigation of these cases; not only the investigation of their own parole agent who goes out and investigates the obvious records and talks to the law enforcement authorities but, certainly, also upon the lawyer who represents the applicant. The lawyer himself, if he is doing a conscientious job, must investigate this case thoroughly. Therefore, the Board must know that lawyer before they can rely upon his integrity in presenting the facts. Certainly such prominent lawyers before this Board as Herbert L. Maris have attributed their success, I am sure, to a thorough investigative job and a respect for the Board and their integrity.

This was the only motive in back of my obtaining this letter from Mayor Clark. If we had been at a personal meeting, I would have merely asked him to introduce me to Mr. Finnegan because, after all, Secretary Finnegan was our Philadelphia representative on the Board. He knew a lot of these prisoners personally. They kept mentioning his name to me and naturally they would want to know—they had known him indirectly I should say, incidentally, people connected with them or interested in them, and it was merely a pleasant gesture intended. I felt that I was, frankly, in no man's land up here after practicing law before so-called Republican Boards before, and now found a change of the Administration. I, naturally, as a Republican, felt that it would be helpful to at least have an acquaintance with someone on the Board. And, frankly, the extent of this matter was that this letter was brought up to Mr. Finnegan by me personally. I presented it to him. We shook hands and that was the last of it. I did not talk to Mr. Finnegan again until I wrote this letter.

Now my thought, therefore, was primarily a friendly thought and that is why I say in this letter of August 11, that if there is any misconception about partisan sympathies, that it would be well to mention the fact that there was, for once, a friendly recommendation of me of my integrity only, not as anyway political because, as I say, Mr. Finnegan knew I was not a Democrat and I certainly never intended to hide behind the guise of a Democrat as certainly was the pointed attempt in this article.

BY SENATOR SCOTT:

Q Let me interrupt you for a minute. Are you active in Republican politics?

A Yes, I am, and I might point out that that was my concern. I had, of course, quite a shock when I realized that I had presented thirteen cases to the Board. They were no different cases, comparatively, than those I presented before and they were just as good winners, say, before a Board. In other words, I mean by that that the facts were such that the man seemed to be entitled to consideration by the Board. He had good parole plans set up. For instance, he had served enough time or his offense perhaps had something in it which might have entitled him to clemency. In each of those cases, I tried to analyze them carefully and see if I had fell down anywhere, but I came to the conclusion that they were no different than the many cases that I presented over the years before the Board.

Q Now, may I interrupt again so that I can get my background straight. In what capacity are you active in Republican politics?

A Well I have—I was about to lead to this. I think I can answer your question, Senator, this way. I was, just before the change of Administration, endorsed by Chester County for a Deputy Attorney Generalship and was offered two of them.

Q Now, that confuses me. Do you reside in Chester County and practice in Philadelphia?

A Yes, I do. I was offered two of them; one in the Public Utilities Commission and one in the Turnpike Commission. Both of those salaries were too low for me to support my family and stay in Harrisburg full time as they wanted me to do, so I refused them, just prior to the change.

The only conclusion that I could reach was that I felt that the record of my applications—I had talked with Mr. Harrington Adams up here about it and Mr. Truscott—I felt the record of that was still around the Attorney General's Office and perhaps, for some reason or other, it had been brought to the attention of at least

Mr. Finnegan. I did not know whether it had been brought to the attention of the Board or not.

Now, working in the field of conjecture only here, I want that to be made clear.

Q Were you active in politics in Chester County or in Philadelphia County?

A In Chester County. I might say that—so if there is any doubt about it—I have lived in Philadelphia and in Delaware County and in Chester County. In all of those places I have worked with people like Judge Lord who was my committeeman in Philadelphia County, Judge Bretherick in Delaware County, and anyone along the line can be checked as to how I stand, so I want to make that very clear. Of course, Jim Hazlett wrote this letter. If the Board cares to have that presented by me, I could present it.

Q Did you have reason to feel that you were of sufficient stature that Mr. Finnegan would know without any questioning?

A It could have been brought to his attention perhaps in reference. Now I am just—As I say, I am not making any accusation; I want that to be made clear. I am not accusing anyone of using their prejudice. My letter was intended, and that is why that paragraph is confusing, it was intended to be ambiguous because I did not want to be quoted by anyone as making an accusation. As a matter of fact, Mr. Finnegan said to me in a personal interview that it had a saving clause in it and I know he was referring to the second paragraph which says:

"I do not mean to intimate that your Board can be influenced politically in matters which involve human life and liberty, but I do feel it is important to remove any misconceptions that might be an influence in borderline cases."

I am merely pointing out there that lawyers in general who practice before the Board have for years recognized the fact that some political pressure is brought to bear in some of these cases. We do not go so far as to have proof or actually to witness that money has passed, for instance, or something to that extreme. Certainly the Board is human and is subject to these various pressures, particularly since they are the high ranking political figures in the State.

I feel that that is the basic reason that I wanted to come up here today and put this before the Board. I want to make it clear that my position is also not particularly for a Board one way or the other politically, but that it should be taken completely out of politics. I think that is the only solution to the problem.

This Board historically started as a—the first thought about this Board was—I think we have a little booklet. Mr. Maris I think owns it right now. It is probably the only copy in existence right now which traces the history of the Pardons Board; a very fine book now out of print. That book indicates that in the beginning this Board should have been composed of sitting Judges who apparently sat in neighboring counties but did a rotating sitting job before the Board of Pardons. If you do not announce who is sitting a certain month, you eliminate completely the chance of approach on these cases. That is one possible solution that I should like to suggest to the Board here. But, in any case, this Board should be taken out of politics. In New Jersey you have a Pardons Board which does not even see the lawyer. The lawyer does not come personally before the Board. They may present a brief. It is composed of three laymen, at least it was when I was before it two years ago; a doctor, farmer and possibly a teacher. These people sit and they seem to have substantial justice. The interesting thing there is they bring the prisoner in there to see the Board.

That again is the thing which is so difficult for lawyers before the Board. That is why I say they must know the lawyers; they must have some confidence in their integrity because the lawyer himself really interviews the applicant in the jail or in the pentitentiary. He sees this man as he now is, maybe twenty years from the time he committed the crime if it is a murderer or at least five years or ten years after the crime was committed.

The only records that the parole agent has to look at are the original records of the crime. True, there is a recommendation from the prison but, as all you gentlemen should know, that is merely routine recommendation and they are not permitted to say much. So that it is very much up to the lawyer to present to the Board his impression of the man now, and not as he was when he committed the crime. If we are for any kind of rehabilitation in this field, certainly we have got to acknowledge that in some cases, at least, the man changes and is eligible and is able to accept a commutation and to be out on the street.

BY MR. KOHN:

Q Is there another letter you sent to Mr. Finnegan outside of the one you put in in evidence?

A Yes. I wanted to say that I did go back and check that paragraph after talking with Mr. Finnegan that day. Frankly, I was surprised that I had not heard an answer because in the letter, the rest of the letter was primarily devoted to mentioning certain cases which I felt the Board might have been misinforced on or I did not get across to them in giving them all the facts and I called them to his attention to see if he would look into them.

So when I went back to Philadelphia, the first thing I did was look at this letter again and I realized that that sentence that I referred to might be ambiguous so I wrote him a further letter of apology and from that point onward, Mr. Finnegan took up these cases and contacted Mr. Hean on them and they were, as a matter of fact, looked into. However, nothing was accomplished on it, but at least I knew that nothing further could be done.

I want to make clear also that the slant of the headline of this article, "McBride Tells of Attempt to Sway Board Member Over by Philadelphia Lawyer in Pardons Case." There was no attempt to sway anybody here because—

ATTORNEY GENERAL McBRIDE: I did not say that.

THE WITNESS: That is what this Bulletin article says here.

ATTORNEY GENERAL McBRIDE: I never made that statement.

THE WITNESS: I am not saying that you said it. I am saying that is what the article said. The thing is that these cases that I mentioned to Mr. Finnegan were all cases that had been decided. I was merely looking

at them in retrospect. I think that article refers particularly to the last paragraph of my letter which reads: "The Shatuck family,"—that is the name of the party—"represents the center of the Democratic Party in Sullivan County." They said that I was attempting to use that as a means of getting them off. Actually, their commuations had been decided, both the minimum and maximum sentence, and they had been granted full pardons. There was no attempt to sway the Board. The only thing that I was looking into here was a question of fines which appeared on the charters and I was not sure on which charter these fines appeared and I was indicating to Mr. Finnegan that I thought that at least they ought to be interested enough to follow up people who had worked hard for their party in Sullivan County. The man was a Justice of the Peace. The wife was a postmistress and so forth.

BY MR. KOHN:

Q There were five altogether?

A That is right. And I must admit that when I went on to say: "I believe, therefore, that not only the interest of justice, but of the party, will be served if something is done about the return of these fines," I capitalized the word "party" and I was merely giving them a little sarcasm; referring, of course, to Mr. Finnegan's party, certainly not to mine. I felt that that should be looked into and, as a matter of fact, it was looked into. Mr. Hean and I went down in the library here and looked over the charters to see which ones of these carried fines. A perfectly legitimate request, I felt, from a lawyer to a public servant. I felt that this letter was essentially one directed to someone who had dedicated himself to do his duty not only to the Democrats but the Republicans. You couldn't have elected him if they had all been Republicans.

Q Do you personally feel, from your experience before the Board, that you got a fair deal on the cases that you tried as compared with somebody else who might have some influence or do you feel that because of your political connections you did not get a fair deal?

A Well I feel that I am only a humble, average lawyer coming before the Board of Pardons. There is nothing unusual in my presentation. If I was Herbert Maris I could have more reason to talk. But I felt, as I said, that these cases that I presented, after this Board began to sit, were no different, comparatively speaking, than the ones that I presented before. As a matter of fact, I have two or three, if the Board would have time to go into them, that I took after talking to Mr. Finnegan on his assurance that we would continue to get an equal break up here and which, incidentally, were turned down, but I took only because they looked like cases that could be worked out. On one case I spent three days out in Clearfield investigating that case laboriously. I saw every single person that time, including both the Democratic incumbent Judge and the Republican Judge who tried the case and got letters from both of them recommending his release. I got telegrams that I presented to the Board asking for release by the V.F.W. post that he robbed. The obvious reason was that the man was in a position at that point to make restitution and the citizens of the whole county or whole city, at least, or town out here wanted to have him make restitution. In such a case it would seem that the Pardons Board could get into it and recommend clemency if everything else was right. Again, I do not know why that case was refused.

Q Do you have any other proof besides your own cases which justified your own belief? Any other information you could give along those lines?

A Well, I certainly do have information on specific cases. Unfortunately, the two cases that have come to mind are ones in which the men are still on parole and I feel that my privilege communication as a lawyer and client cannot reveal the exact names to the Board. At a later time I will be glad to give that name or names that I have in mind to anyone.

Q Well, in those cases do you have some knowledge or evidence or statements that there was some political influence used?

A That is right.

MR. KOHN: I do not want to state the answer for you.

ATTORNEY GENERAL McBRIDE: You are coming very close waiving the privilege for him.

THE WITNESS: I am merely saying that in those cases—

ATTORNEY GENERAL McBRIDE: If you tell what they told you in substance—

MR. KOHN: You feel you would jeopardize their position?

THE WITNESS: That is right.

ATTORNEY GENERAL McBRIDE:—you will have to tell the whole thing.

THE WITNESS: I am merely resting on the statement that I feel that privilege should be invoked here. I would be jeopardizing their position.

ATTORNEY GENERAL McBRIDE: How long before you can reveal their names, about ten years from now?

The WITNESS: No, about five years from now.

ATTORNEY GENERAL McBRIDE: The Chairman will be interested, won't you?

CHAIRMAN TOMPKINS: Did you say you got ten years for something, General?

ATTORNEY GENERAL McBRIDE: He said he would tell the committee the names five years from now.

BY MR. KOHN:

Q Is there anything else you would like to say?

A No, I think that is my full statement.

MR. KOHN: Mr. McBride might want to ask some questions.

THE WITNESS: I think I can sum it up in one sentence that I feel that above politics is a question certainly of friendship. I see nothing wrong with friendship in the presentation of cases. An inter-working relationship between the Board Members and lawyers, at least to recognize their integrity, certainly would not be objectionable, but if it gets to the point where it is just a question of fighting political influence all the time, which a lot of lawyers have felt they have been doing when they come up before the Board of Pardons, several have mentioned it to me, then I think it has got to the point where some change should be made.

BY MR. KOHN:

Q You don't feel then that there is anything wrong if a lawyer comes to see Mr. Finnegan to discuss his

own case, have some law looked into and see that justice is done?

A If there are facts that—I think first, to answer that question, if a lawyer has done a conscientious job he can present most of the facts of the case in the presence of the whole Board. Certainly if there is something that he feels was not clearly gotten across to the Board, for insance, as in this letter,—I would like to, well I could give you cases in point to explain that—but I feel that there certainly should be nothing objectionable to an attorney writing to a Member of the Board or every Member of the Board for that matter, to point out additional facts. An attorney has that privilege, I understand, to write to the Secretary, but if it is something of local concern, for instance, and there is a local member on the Board as Secretary Finnegan is, as far as we are concerned in Philadelphia, it certainly would not seem out of line for me to write to him directly on that point.

Q Did you talk to him about Shattuck?

A Those cases were all discussed in this letter.

Q Did you talk to Mr. Harner about anything like that?

A No, I did not.

Q You were lucky.

A I never talked to any Member of the Board.

BY CHAIRMAN TOMPKINS:

Q Mr. Smith, this letter which you wrote to Mr. Finnegan, was that written before or after your experience with the thirteen cases?

A Afterwards, sir.

Q Were you trying to get the door open for yourself as I understand?

A Pardon?

Q In other words, were you trying to get the door open for yourself at the Pardons Board?

A No, I was not. I was merely trying to find out what the trouble was so that I knew whether to take any more money from prisoners. I did not feel conscientiously that I should take any more if there was anything wrong in the fact that I had been too active perhaps on the other side of the fence.

Q Now did you specialize in Pardons Board work?

A I did, almost entirely.

Q Are you still specializing in Pardons Board work?

A I have had to eliminate it completely. I had to change my practice completely as a result of this.

Q How long has it been since you have done any Pardons Board Work?

A Well, the last case presented was in June of 1956, but those cases, understand, had been contracted for several months, perhaps almost a year in one or two of those cases, ahead of time and they had to be worked on.

Q Now you made some reference here to the system in New Jersey. You know, of course, that the Pardons Board in this State is a constitutional board and that the Constitution states that the hearing must be open. In your study of the history of the Pardons Board could you tell this committee what motivated the inclusion in the constitutional provision that the hearing be open? Have you ever read the Constitution convention notes to determine why that provision was put in there?

A I have, sir. I think that came from the first discussion about the idea of Judges sitting and really to get away from the idea of a Court as much as possible. They wanted to be more of a people's tribunal, similar to the idea of a jury, that is constituted of laymen, and they wanted to get away from that as far as possible.

Q Do you think that the Pardons Board hearing should be open?

A I see no objection to it being open, sir.

BY SENATOR YOSKO:

Q I got a couple of questions. You sort of had a reputation of being a pardon getter, didn't you?

A Well, as I say, I did have a fair amount of success in the beginning there and there is a chain reaction among the prisoners and you get more and more cases as a result.

Q Well, while you were having that success, you did not complain about the Pardons Board being political, did you?

A I have never used politics in any presentation of any case that I ever represented before the Board.

Q You did not make up your mind to inject politics into it until the new Board came on and several of your cases were turned down?

A I did not make up my mind then, sir; I never did.

Q Your letter so states.

A My letter was a friendly letter. Which letter are you referring to? The letter from Mayor Clark? There is nothing in there about politics. The letter is merely a reference to a friendly letter and that was all it was intended.

Q I wish you would just take these letters here and just read paragraph after paragraph and tell us what you had on your mind when you were writing them.

A Well, the letter to Judge Bretherick, of course, is a letter that was written to him as one party member to another; my old committeeman as I mentioned to you. I probably had a certain amount of confidential matter. I never intended that the whole letter—

Q Did you say committeeman?

A He was ward leader actually, in the ward where I lived in Darby.

BY CHAIRMAN TOMPKINS:

Q While he was on the Bench?

A Oh, yes, before he was on the Bench. This letter, as I say, in content was never intended as a record before this Board. I certainly gave him permission to use excerpts from it and apparently the whole letter got in.

Q You did not intend him to make that public, you read one paragraph.

A That is right, but he later contacted me and said would I object to him mentioning anything in here and I said certainly not, after the cases that were pending had been decided. You will note—

Q You were afraid that for political reasons they may turn them down?

A I just felt a duty to my client not to influence the cases in any way, either way.

BY SENATOR YOSKO:

Q Well just take it paragraph by paragraph and tell us what you had in your mind when you wrote that letter.

A Any paragraph?

Q Start at the beginning.

A All right. Well, the first is a congratulatory statement as to his expose or attempt to expose the Board of Pardons.

Q What was that? What expose did he make of the Board of Pardons?

A He came out in the papers against the Board of Pardons shortly before this letter was written, March 13, I believe in 1956, and criticized the Board. I am not sure that I can give you the exact motive or what he exactly said there, but in any case it was prompted by a normal letter to, as I said, my old committeeman.

Q Well, Mr. Smith, let me say this to you. Judge Bretherick, if that is the way you pronounce his name, made a lot of statements here before this committee, but if you read the testimony after Mr. McBride cross-examined him or examined him you will find that ninety-nine per cent of the accusations that he made he could not substantiate. I do not care what the papers printed on what he said. But I am telling you now that if you read the testimony you will find that ninety-nine per cent of the accusations that he made did not hold water.

A Are you clear, sir, that this letter does not refer to the statements that he made at this hearing?

Q All right.

A This is March 14, 1956, a former occasion.

Q I know, but you were talking here about an expose. Now what expose was made?

BY CHAIRMAN TOMPKINS:

Q Isn't that about the time that he addressed the Grand Jury and the Grand Jury made some reference to the matter in one of their presentments?

A That is right I believe that is right, sir. As I say, this is just a matter of congratulations.

BY SENATOR YOSKO:

Q Well, what did he expose?

A I am not familiar with the facts.

Q Well, you are talking about an expose. Now what did he expose? I would like to know what he exposed.

BY SENATOR SCOTT:

Q What did you say in your letter?

A I merely said:

"My heartiest congratulations on your efforts to expose the political decisions on the part of the Board of Pardons."

Q What were those efforts?

A And those efforts were an attempt to show that certain decisions had been influenced.

Q How did he attempt to make that showing or that effort?

A Well as I recall—

Q Did he do it by a press statement, or did he give it to the Grand Jury—

A I think he gave it to the Grand Jury. Actually that is what I was familiar with.

BY SENATOR YOSKO:

Q What did he give to the Grand Jury?

A As I say, I am not prepared on that particular phase of it. This particular letter was written a year before any of this investigation. I would be prepared to answer—

Q To the best of my knowledge for all the testimony I heard here Judge Bretherick exposed nothing.

I asked him whether he had any evidence of political influence used in the Board that caused them to either grant or disapprove a petition that was filed before the Board and his answer was no. So what did he expose?

A Of course that is a matter of opinion. At the time I wrote the letter, of course, I believed that what evidence he had was solid. Now that is all I—

Q All right, read the next paragraph.

A "It might be interesting to you to know a slightly different angle to this which I am prepared to present with my own cases as an illustration. It is a matter of record that prior to this Democratic Board I had a record of approximately 75% success over a period of almost ten years, during which I presented five or ten cases each year."

Q All right, now stop right there.

A I'll finish the paragraph.

Q All right.

A "I have presented seventeen cases to this Board and all of them have been refused."

Q And are you implying now that the Republican Board decided your cases on politics and the Democratic Board came in and knowing that you were Republican they decided against you.

A I have already made the statement that I never presented any case to the Board on the basis of politics.

Q What did you mean when you said that?

A I can explain it if I can answer it, sir.

Q All right.

A I never presented a case on the basis of politics to any former Board. I came up here and presented it straight across the board on the basis of investigation only. I was trying to emulate, frankly, Mr. Herbert L. Maris and General McBride because I felt they were successful to the Board because it had a good investigative staff. I try to do the same thing.

ATTORNEY GENERAL McBRIDE: I never won seventy-five per cent of my cases before the Pardons Board.

THE WITNESS: That is correct. I felt that that was the only way that I could do it because I did not have any large political connections and certainly would not have used them if I had, so the point was that I came up here as a typical lawyer, I thought, just presenting cases and getting fairly good results. Now that whatever was the reason and I am saying that is as far as I am going here today and I want to make that clear. Whatever was the reason, I am merely setting forth my record of showing that before a certain date I had success and after that date I had—

CROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Under a certain Board controlled by a certain political party?

A It just happened that way. If it happens, I don't know. The point is that I am merely resting on the record.

Q Are you now saying that it was just bad phraseology

or are you implying that there was politics involved in granting your petitions and having them refused by the new Board?

A As I pointed out, this letter was written from one politician to another, and between fellow politicians you are a little freer with your accusations than you certainly would be before the investigation body here. If that is my personal opinion, it is a personal opinion, but I am saying on the strength of actual facts I am merely resting on my record. Before a certain date I had success; afterward I did not. The cases were no different; I did not prepare them any differently and so forth.

Q Was Judge Bretherick a politician?

A He certainly was before he went on the Bench.

REDIRECT EXAMINATION

BY SENATOR YOSKO:

Q Will you agree with me that anybody that would read that paragraph would imply that there was politics being played on the Pardons Board?

A No, sir; I don't think that gives any indication of that at all.

Q You wouldn't?

A No, sir. I am merely resting on my record there. As I say, you may be interested to know that this is my success. Now, whether it was because the Board had changed or not, that is for him to agree. He might say, "Well, I don't agree with you, Charlie. I think you are wrong. I think it was not politics at all."

Q Mr. Smith, the only reason you are here, I think I am correct in making this statement, is because this Board came to the conclusion that you either implied or directly accused one or the other Board of playing politics with the granting or refusing petitions for commutation of sentence or pardon. That is the only reason why you are here, because of those letters you wrote and the implications of them?

A I am here as I have just stated previously, because I feel that this Board is necessarily open to the temptation of politics, whether it be Republican or Democratic, and I do not confine my remarks to this Board.

Q Now, Mr. Smith, just on the basis of the statement that you have made, what evidence do you have? I think in your remarks here you said that the Pardons Board was subject to political pressures. I made a note of it. Now, what evidence do you have of any politics being used on the previous Board or this Board that would cause them, because of that political influence, to act favorably or unfavorably on an application before it?

A I have already stated that among lawyers—

Q I am not asking you about lawyers; I am asking you whether you have any evidence.

A I have the evidence as I say that among lawyers it is a generally accepted fact that that is the case.

Q I do not care what you have about lawyers. I am asking you—Now wait a minute. He said it is a common accepted practice among lawyers to believe that political pressures are applied to members of the Pardons Board. I want to know whether he has any knowledge of it.

A Well, sir, I am merely referring there to the very obvious fact that you heard the cases this morning presented on one side and then other cases presented on the other side, and I think none of us is naive to say that there is no political influence being brought to bear on the Board, and that certain cases have been decided on that basis. You come up month after month and you see recognizable politicians out in the waiting room of the Pardons Board. They are not the lawyers in the case; what are they there for? It is only the question of necessary conclusions if you are alert to the situation.

RECROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Who were those politicians?

A I can name several of them.

Q Name them.

A Surely. I will not try to be discriminate either in the naming of them. I have seen on occasion Senator Stiefel. I have seen, by the same token, "Aus" Meehan there on many occasions.

Q Senator Stiefel is a lawyer, is he not?

A Oh, is he? I am not sure of that. If he is, I am not aware of it.

ATTORNEY GENERAL McBRIDE: As a lawyer he appears before the Board.

SENATOR YOSKO: He is a State Senator and a lawyer.

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Meehan is not a lawyer, is he?

A I do not believe so.

Q Now who else was there?

A It is the general atmosphere you see out there—I am trying to think of somebody that is not a lawyer; some of the prominent people who are not lawyers.

FURTHER REDIRECT EXAMINATION

BY SENATOR SCOTT:

Q You have no knowledge of the business of these people?

A I have no knowledge of what it is and, as I say, this question is not directed to one party or another. I am merely stating the general statement that I feel the Board is subjec to influence regardless of how it is constituted politically.

BY SENATOR YOSKO:

Q But you have no personal knowledge of any influence being exerted on this Pardons Board or the other Pardons Board?

A I have discussed several cases with other lawyers, as I say, and they told me how they have gone about it. That is hearsay and I realize—

Q You are not answering my question. Do you have any personal knowledge of any political influence that was used on this Board or any other Board that caused them to act on an application that was before the Board.

A Yes, I do. As I stated before—

Q What is it?

A Now wait a minute. As I said before, there are several cases where my lips are sealed and they are cases in which I have intimate, personal knowledge of because they are parolees that I have represented or am representing at the present time. I claim again the privilege of immunity on that because I think that is higher than my oath here.

Q As a member of this committee, because it is investi-

gating here political influence on the Pardons Board, I ask you now to name those people.

A I would name them to you, sir, in private. I would not name them in public and thus prejudice their chances of obtaining a turn-down on their commutation or—

REPRESENTATIVE BELL: Mr. Chairman, may I ask the Board for a ruling as to whether this witness is entitled to claim lawyer's immunity?

SENATOR YOSKO: He is making an accusation here that he cannot substantiate.

THE WITNESS: I am not stating it as an accusation. I know several people; a couple of them.

SENATOR YOSKO: Mr. Chairman, I request that you direct the witness to answer the question.

CHAIRMAN TOMPKINS: There is a very fundamental principle in this Country that a lawyer is in that class who cannot be compelled to divulge confidential information that exists between himself and a client and if the names of these people, whom he has suggested, are clients of his or have been clients of his, I do not know that this committee has any power to compel him to make such disclosure.

SENATOR YOSKO: He did not say that they were clients of his.

THE WITNESS: I did so, sir. I made that very clear.

SENATOR YOSKO: And may I say to you, Mr. Chairman, that it is people like Mr. Smith who, with loose talk and irresponsible talk, reflect discredit upon governmental bodies and people like yourself and myself, and if he has any evidence of political influence which we are investigating, it is his duty as an American citizen to come forward and give us the evidence, but not make statements here that is going to cast a cloud on this entire investigation.

CHAIRMAN TOMPKINS: Just a minute, please. The gentleman has stated that he would be willing to give this information to us in private and then we would have to make the decision as to whether or not we violate that immunity which he has questioned between himself and his client. We do not have any power to compel this witness to disclose this confidential matter between himself and his client.

SENATOR YOSKO: I ask you now, Mr. Chairman, are you going to ask him to submit those names to you in private?

CHAIRMAN TOMPKINS: I will ask him, inasmuch as he has made the statement, that he submit those names to the Chairman of this Committee, voluntarily. We have no power or compulsion on it.

THE WITNESS: I came up here today voluntarily, I would like it to be clear, because I felt a duty to bring out as far as I could this information giving you the facts as far as I could take them. I cannot take them any further.

SENATOR YOSKO: That is all I have.

CHAIRMAN TOMPKINS: Any more questions?

SENATOR SCOTT: Yes. Will you give Mr. Smith the other letter?

CHAIRMAN TOMPKINS: He has both.

THE WITNESS: I have one here. I think this is a copy.

BY SENATOR SCOTT:

Q This is a letter to Mr. Finnegan, I believe?

A Yes.

Q Will you read, Mr. Smith, the last sentence of that letter? But before you do, you have certainly made myself, and I presume the remainder of the committee, believe that you are a good Republican and that you are interested in the Republican Party. Now, I wonder if you would read the last sentence of the letter to Mr. Finnegan?

A The last sentence reads this way:

"The Shattuck family represents the center of the Democratic Party in Sullivan County. I believe, therefore, that not only the interest of justice, but of the party, will be served if something is done about the return of these fines."

I explained that before as saying I was giving a little sarcasm there in referring to the party with a capital "P." I would not have capitalized it if it were otherwise, indicating clearly, I thought, Mr. Finnegan's party, and I am sure that if Mr. Finnegan was asked the question directly he must admit that he had no illusions about my sympathies after our talk.

MR. FINNEGAN: I certainly did not.

BY SENATOR SCOTT:

Q The paragraph before that reads how?

A "Does your Board have sufficient power directly or through the Governor, to compel return of these fines or do you recommend that I file a writ of mandamus against Bradford County to carry out the order of the Governor and your Board?"

Q Now you go back to one paragraph before that.

A "One matter that should definitely be looked into in the interest of justice is the case of five pardons which were granted last year to the Shattuck family of Shunk, Sullivan County. These five cases were presented by me in June 1954 and full pardon was granted in December with a definite order by your Board that the fines be remitted to those pardoned. These fines have still not been paid by Bradford County, where these people were legally convicted, even though repeated demand has been made upon them. The fines in question are as follows:

"Charles V. Shattuck	$100.00
Mrs. Ruth Rapley Duffield	100.00
Luther Shattuck	100.00
Ralph Shattuck	75.00"

CHAIRMAN TOMPKINS: Let us have the original. You have a copy of that in your file?

THE WITNESS: Yes, I have a copy of it.

BY SENATOR SCOTT:

Q Let us have that original letter. You do have a copy in the file?

A Yes; right here, sir.

Q You did read the entire last paragraph, didn't you, Mr. Smith?

A That is right.

FURTHER RECROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q You contend, I take it, that your letter to Judge Bretherick had a political implication, do you not?

A Yes, I do.

Q But you deny that your letter to Secretary Finnegan did?

A In the sense that it was not intended as was presented here at the first hearing.

I can go by this newspaper write-up that the letter was read into the record by yourself, according to this article.

Q Are you under the impression that Mr. Finnegan has yet to testify about this matter?

A Well, it says—No; no, I am not under that impression. The article is quoting from the letter, I believe.

Q You say in your letter to Mr. Finnegan:

"It occurred to me that if the Board had any misconceptions about my partisan sympathies, it would be well to bring Mayor Clark's letter to their attention."

Didn't you refer there, when you used the words "partisan sympathies," your sympathies with the Democratic Party?

A Not certainly, sir. I was referring only to the fact that a partisan consideration happened to be influencing the Board because of my being in line for a Deputy Attorney Generalship prior to the change of Administration. Take a look at this friendly letter from Joe Clark to Mr. Finnegan.

Q I mean when you said partisan sympathies, you meant political sympathy; did you not?

A The word would be synonymous.

Q Yes. So, you meant to indicate to Mr. Finnegan that you were sympathetic to the same political views as Mayor Clark?

A I meant just the opposite.

Q You did?

A I tried to clarify—

Q That escapes me. I will let rest right there. You say you reiterated it that you were successful in seventy-five per cent of the cases which you argued before the Board of Pardons?

A Yes, sir.

Q Perhaps you will tell us about your seventy-five per cent of the cases which you won in 1954. It was the year preceding the present Board. Give us the names and when they were argued and whether they were granted or refused.

A In 1954, the first cases presented during June of 1954—That was an unusual year because somehow, although the cases had been given to me and contracted for by me in several different months, they all came up in June. I can explain how some of them were handled.

Q All we are interested in is statistics.

A All right. Here are the cases: Lonnie Clark, A—

Q Now just a minute. Lonnie Clark?

A Thannie Lonnie Clark. That is application A-1475.

Q Of 1954?

A June of 1954.

FURTHER REDIRECT EXAMINATION

BY CHAIRMAN TOMPKINS:

Q What is the number on that?

A A-1475.

Q June Term?

A That is right.

Q 1954?

A That is right.

BY SENATOR YOSKO:

Q What is that number?

A A-1475.

FURTHER RECROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Was he commuted?

A That was refused. All right, you lost that one.

Q What is the next one?

A Wilton Love.

Q He was granted, wasn't he?

A He was granted.

Q One win and one loss?

A Right.

Q Charles V. Shattuck, wasn't it?

A Charles V. Shattuck, Donald Shattuck, Luther Shattuck,—

Q These were in 1953, were they not?

A No, these were all together, sir. I have them under application for pardon; five cases, all granted.

Q Well, weren't the cases of the Shattuck family granted as of 41, 42, 43, 44, and 45 of June, 1953?

A I think you have the wrong year. It was in 1951 the commutation of minimum was granted. I believe in June of 1953, the commutation of maximum was granted. June of 1951, I believe that is the right month. I believe I have it under March of 1951 they were granted commutation of minimum.

Q Now that was regarded as one case, wasn't it?

A Well, that is a question of opinion. I have counted them as five.

Q You are counting the Shattucks as five different cases?

A May I explain that they had very different sentences and were very different problems to handle. Donald Shattuck, for instance, was serving a prior sentence when he came to Eastern State Penitentiary before he even started serving his sentence for perjury.

Q Let us concede it is five cases. Now, the next is Joseph Strada?

A That is right. It was refused.

Q It was refused. Elwood Thomas Sterling was refused?

A It was refused, but it was pending for reargument. There was an additional fact that was not brought out for reargument.

Q That was in 1954, was it not?

A I think the argument was held in 1954. I think it was, sir.

Q But it was refused?

A I think it was. I do not have the date.

Q We have it refused.

A It was reargued. I think you also have that there.

Q How about Elwood Thomas Sterling?

A That is the one we are talking about.

Q How about Harry Felton?

A Harry Felton was in September of 1954. That was refused.

Q How about Alfred L. Sallade?

A Sallade. October of 1954 and that was refused.

Q Francis A. Murphy, December, 1954?

A That case, I might point out, in 1954—I presented that case twice I think. That is one you have that I do

not. That case was presented once by my former partner, Joseph Bongiovanni, and once by myself, I believe. I do not know which one that was, but I think that was by Joe. That is why I do not have it on the list here.

Q In 1954 it was refused, was it not?

A Yes, I believe so.

Q Elwood Thomas Sterling again?

A That must be the reargument.

Q Right, but it was refused on the reargument?

A Right.

Q So you had seven wins against, counting the Shatsuck case—that is a different case, each one of them—against six losses: Is that seventy-five per cent?

A Are you counting Sterling twice?

Q Yes. You argued it twice, did you not?

A Well, I have included in that 1953, Mr. McBride—that is the trouble I have here—

Q You cannot include them.

A Including 1953, my percentage of success was fifty-seven per cent for that stretch.

Q Well now, adding Lonnie Clark it makes it seven against seven for 1954, is that right?

A Adding it as a loss?

Q Yes, which the Board of Pardons refused.

A Didn't you already count that in your seven to six total?

Q No. Lonnie Clark—

A Let me count this just a moment. I will recount them here. I have only five refusals. Now, counting Sterling twice, that would be the sixth, according to my records.

Q And Lonnie Clark makes seven, does it not?

A Well, I had Lonnie in that five. Lonnie Clark, Joseph Strada, Sterling and Felton and Sallade are five, are they not?

Q And Murphy?

A Oh, as I say, I did not have that on my paper.

Q Well that is what it appears; seven against seven is fifty per cent. Now let us go to 1953. Having taken credit for the Shattuck case in 1954, you only had one case in 1953, did you not, and that was refused?

A No, I had Francis Murphy under November, 1953. I see. I think that month is confused there. I had Murphy and Sterling in 1953.

Q You lost the case anyway, did you not? You did not win any in 1953?

A Well, aren't you going to count the commutation of the maximum? That is a separate effort, as you well know.

Q It did not succeed though.

A Well, Shattuck's did, certainly.

Q Well, you counted the Shattucks before.

A For the pardon, General, not for the commutation of the maximum. I mean each time you get a—

Q And that averages seventy-five per cent by including commutation of the maximum as one and pardon as another even though it is the same man?

A Don't you get a separate fee? Don't you take care of the case completely differently? It is a completely different case.

Q Let us go to 1952. How many did you win?

A In 1952 I was in Boston the whole year and I was not here.

Q Didn't you argue one?

A No, sir. I was not here.

Q So it is no seventy-five per cent for 1952, is it?

A I say over the ten years.

Q Now, for 1951 you won four cases and lost three, did you not?

A We have, Hovey, Graves—

SENATOR YOSKO: How do you spell the first one?

THE WITNESS: Harry Hovey—H-o-v-e-y; Harry Graves. One was in February and the other was in March of 1951. James Little of June of 1951, and I have—

BY ATTORNEY GENERAL McBRIDE:

Q Did you win that or lose it?

A Those are the three losses. I won Verdi Thomas in March of 1951, I believe this is. That was a woman's case up there, and the five Shattucks for commutation of minimum.

Q Oh, God, the Shattucks get in three times under this

A I think that is right. As I said, I felt as if—

Q Now you see it; now you don't.

A As I say, the preparation is different; the whole case is different.

Q Let us go to 1950. Thank the Lord there are no Shattucks.

A No, I cannot use them again.

Q How many were refused in 1950?

A Well, we have Robert Hatry in October of 1950.

SENATOR YOSKO: How do you spell that?

THE WITNESS: H-a-t-r-y. William Giles in September of 1950.

BY ATTORNEY GENERAL McBRIDE:

Q Did you win or lose these?

A You asked me if I were refused. Those two were refused. I have Nelson Lundy granted in December of 1950 and Clement Musial was granted in April of 1950 and he went and walked off of Rockview before he even got the news from me and, of course, that was revoked, but I count it as a win.

Q We have you losing seven and winning two.

A I must admit that it is very difficult to go back in your files this far and find every single case that you presented. I haven't got them earmarked as Pardons Board cases from other cases. I did the best job I could to dig up this record for you.

Q It is perfectly clear, therefore, after this short—

A The percentage could be off ten or twenty per cent. I will admit that. When I wrote the letter I did not go back and check my files.

CHAIRMAN TOMPKINS: Do you have that letter there that you wrote to Judge Bretherick?

(Letter was handed to Chairman Tompkins).

MR. KOHN: Thank you, Mr. Smith. Are there any other questions?

CHAIRMAN TOMPKINS: No questions. Now, the hour of four o'clock having arrived—General, may I say that I have made proper arrangements with the Custodian of the House Reports on Commutations that Mr. Arnold, or whoever Mr. Kohn may designate, and Mr. Hean, or whoever you may designate, may go and see the files over in his office. They will not be allowed to be taken out of the office, but you can go over in his office and you are allowed to work there in his office on that.

ATTORNEY GENERAL McBRIDE: Splendid. We think we know the reason for the discrepancy.

CHAIRMAN TOMPKINS: Well, if there is a reason, we should know it and bring it out.

Because of our time on things, the committee has decided we will hold hearings on Monday of next week, beginning at ten o'clock and we can only run up to one o'clock in order to get additional information in here. We will have Mr. Hughes back on Monday morning to try and finish up with them, and then the next hearing after that, according to the present schedule, unless it is changed between now and Monday, will be for next Wednesday and Thursday again.

If there is nothing further at this time, this hearing will adjourn until Monday morning, April 1st, at ten o'clock, a.m.

(Whereupon, the hearing was adjourned at 4:00 o'clock, p.m., until Monday, April 1, 1957, at 10:00 o'clock, a.m.).

* * *

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing on the above cause before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and that this copy is a correct transcript of the same.

NORMA P. KIRKPATRICK

Reported by:

Miss Norma P. Kirkpatrick
307 North Second Street
Wormleysburg, Pennsylvania

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

AT HARRISBURG, PENNSYLVANIA
DATE APRIL 1, 1957

VOLUME VIII

PATRICIA L. SAYER
P. O. Box 496
Harrisburg, Penna.

CEdar 2-2832

INDEX

Committee's Witnesses	Direct	Cross	Redirect	Recross
James W. Evans	1472	1488		
David Kohn	1497			
J. Harold Hughes (Recalled)	1509			
Frank R. Hean (Recalled)	1561	1577		

EXHIBITS

Committee	Identified and Received
Exhibit No. 30— Letter from Charles F. G. Smith, dated March 29, 1957	1469
Exhibit No. 31— Letter from Judge Arthur P. Bretherick, dated March 21, 1957	1517
Exhibit No. 32— Letter from J. Harold Hughes, dated March 20, 1957	1517
Exhibit No. 33 Letter from Mr. Hean, dated September 11, 1956	1564

BEFORE

JOINT LEGISLATIVE COMMITTEE

TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a.m., Monday April 1, 1957

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

VICTOR H. WRIGHT, ESQUIRE, Deputy Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel).

JAMES K. ARNOLD, ESQUIRE, 2109 Market Street, Camp Hill, Pennsylvania
For—Committee (Assisting Counsel).

Monday, April 1, 1957

10:00 A.M.

CHAIRMAN TOMPKINS: For the purpose of clearing the record on a matter, last Thursday a Mr. Charles F. G. Smith appeared before this committee and made statements. Now today I have a letter from Mr. Smith, dated March 29, 1957, which we will make a part of the record, as follows:

"The Honorable Edwin W. Tompkins,
Chairman, Senate Investigating Committee,
Senate Caucus Room,
Harrisburg, Pennsylvania.

"My dear Mr. Tompkins:

"This is to certify that after testifying before your committee on Thursday, March 28, 1957, to the effect that I was in possession of certain information about the identity of persons who could testify to political influence on the part of the Board of Pardons, I further considered the fact that this information arose from the privileged communication between these persons as my clients and myself as attorney, which I would violate if I divulged their names even to you privately as Chairman.

I have, therefore, decided that I am not at liberty to give you these names because of this immunity which surrounds them.

(Paragraph 3 of this letter was physically expunged from this transcript.)

"I am enclosing two copies of this letter for Mr. Kohn and Attorney General McBride."

We will have that marked as an exhibit and put into the record.

Letter from Charles F. G. Smith to Chairman Edwin W. Tompkins, dated March 29, 1957—produced, marked for identification and received in evidence as Committee Exhibit No. 30. AJP 4/1/57

Now, because of the Attorney General being detained at a legislative committee meeting, which is studying the sales tax, we will have to alter our proceedings for the early part of the day until such time as the Attorney General is able to be present, because we hope that he will be available by quitting time at 1:00 o'clock. I understand that the Senate meets at that time in the Caucus Room and we will have to adjourn by then. So, in the meantime we will take up a couple of other cases we have on our list here.

REPRESENTATIVE BELL: Mr. Chairman, may the record show that the Deputy Attorney General is present, and perhaps you would want in the record a statement from the Deputy Attorney General, that he is here, appearing in Mr. McBride's stead.

CHAIRMAN TOMPKINS: I think we should.

DEPUTY ATTORNEY GENERAL WRIGHT: Yes, Mr. Chairman, as I told you before the meeting started this morning, the Attorney General has been requested to attend a meeting of legislative leaders with relation to House Bill 337, and has asked me to substitute for him here until such time as he is free from that duty and may again return to this room.

REPRESENTATIVE LOPRESTI: Mr. Chairman, at this point I would like to make a request that the remarks of Mr. Smith, regarding political influence with the Pardons Board, be expunged from the record; not merely stricken, but expunged from the record, and be eliminated completely for the reason that they at this stage are very misleading and would likely be misunderstood as relating to this particular group of individuals who are now on the Pardons Board; whereas the import of the man's statement to me would indicate that it was some previous Pardons Board, since he has had no favorable reaction from the present Board. And he says the persons are out on parole, which indicates it must have been a previous Board that he is referring to.

But in order that neither the previous Board nor the present Board be under a cloud I think those remarks should be expunged from the record and not be considered by this committee in any manner whatsoever.

REPRESENTATIVE BELL: Mr. Chairman, I also concur in that request although I do not concur in Mr. Lopresti's reasoning, because it would be very possible for Mr. Smith, the Attorney, to have talked with clients and then had another attorney represent them in front of the present Pardon Board. But I do concur with the expunging.

REPRESENTATIVE LOPRESTI: Well, in that case it wouldn't be privileged, Mr. Chairman. And if it is not privileged, let's bring him back. It is privileged only if it is between his client and himself, and he has said that none of the cases he has presented to the present Board have been released or commuted. He further said that these men were out on parole and they might be affected if he did testify. He made that statement.

SENATOR YOSKO: He could readily have had co-counsel who superseded him and he would still be of counsel.

CHAIRMAN TOMPKINS: Well, whatever the reason, we will ask the stenographer not to include as a part of the transcribed testimony the remarks of Mr. Smith in connection with certain political influence which he failed to divulge by reason of privileged communication.

REPRESENTATIVE LOPRESTI: Thank you.

CHAIRMAN TOMPKINS: Now, Mr. Kohn.

MR. KOHN: We have prepared for presentation the Sheaffer murder case. I think there were some inquiries in regard to that and we will present that at this time through my associate, Mr. Evans.

SENATOR YOSKO: I didn't hear you.

MR. KOHN: I'm sorry, Senator Yosko.

We have several cases to present and the first one will be the Sheaffer murder case which has been referred to previously. It is a Perry County case, I think.

We were asked to look into that case and we would like to make a report on it, as well as on some other cases.

JAMES W. EVANS, being duly sworn, was examined and testified as follows on

DIRECT EXAMINATION

BY MR. KOHN:

THE WITNESS: I might say this. There have been

some cases which have been referred to us for investigation; some by members of the committee, and some by newspapers and various individuals. I have before me a list or a resume of the files on certain cases, and I will submit this list and the resume I have typed up to the committee. I also have a copy here for the Attorney General's office. I will briefly run down this list for the committee and you may ask me what questions you please.

SENATOR YOSKO: Do I understand this is the list of cases that you have prepared briefs on?

THE WITNESS: This, Senator Yosko, is part of them. Mr. Arnold has another set. We are still continuing to bring some of those cases down. I have here, roughly, about a dozen or so cases.

CHAIRMAN TOMPKINS: Do you have the original files here on each of those cases, Mr. Kohn?

MR. KOHN: No: but I can get them very quickly.

CHAIRMAN TOMPKINS: Which case are you going to take now, the Sheaffer case?

THE WITNESS: Yes, that is the case; Paul L. Sheaffer.

CHAIRMAN TOMPKINS: Do you have the original file here?

SENATOR YOSKO: What is the number?

THE WITNESS: No. 8397.

CHAIRMAN TOMPKINS: Let's not take any of these cases unless the original file is present for the use of the committee.

Very well, Mr. Kohn, proceed.

BY SENATOR YOSKO:

Q Mr. Evans, you would not have copies of those briefs for each of us, would you?

A We have, as I say, a copy for the Attorney General, a copy for our file, and a copy for the committee; just three of them. Here is a copy you may use for the committee. You will find the Sheaffer case about midway through there.

SENATOR YOSKO: But this compilation here—is this all of the cases you have, or is it just the Sheaffer case?

THE WITNESS: No, these are all the cases that I have for presentation today that are grouped.

CHAIRMAN TOMPKINS: Dave, how many of these are you going into today?

MR. KOHN: Well, we will go along until the Attorney General arrives. Then we will proceed with our schedule. If he doesn't get down, we'll have to put Mr. Hughes on to start with.

BY MR. KOHN:

Q You may proceed.

A These are not arranged in any particular order. We have taken the cases which have come to our attention.

The case of Paul L. Sheaffer, S-h-e-a-f-f-e-r, was heard in September 1956 session and recommended November 1956. It was a Perry County case wherein a man was sentenced to life imprisonment and served a term of twenty-nine years and eleven months when he was commuted, this commutation being effective January 7, 1957.

This case caused considerable comment here locally in Harrisburg. It concerned a double slaying of a husband and wife and the kidnapping of a minor daughter.

BY CHAIRMAN TOMPKINS:

Q Why don't you just read your brief there on that?

A Well, I can give it very briefly because this is very extensive to read and may take up too much time to cover all the cases.

But in this case the file had many, many, letters opposing the commutation apparently on the grounds that Sheaffer at one time or another made the threat that he would return to Perry County.

Approximately a year before the commutation was recommended, a psychiatric report from the penitentiary dated April 26, 1955 described Sheaffer as irresponsible and emotionally unstable. However, this psychiatric report was changed just a few months before the recommendation was made in which he was now described as emotionally stable and fit for parole and release.

The trial judge in this case was dead but Judge Kreitzer from Perry County opposed the commutation as did the district attorney, Charles Kugler. The Board in this case saw fit to send out a State Policeman to investigate the feelings of the community on this case, and the report of the State Policeman, after interviewing forty or fifty County residents, found that everyone was opposed, including two stepsisters of the defendant. I will qualify that last remark of the two stepsisters; they were not opposed but had no recommendation whatsoever.

The commutation was granted by the Board on the condition that Sheaffer would never return to Perry County. As I recall it, he was taken under supervision of the Salavation Army in Philadelphia.

There is no evidence of any kind of political influence or improper influence on the Board in this case in the file.

BY CHAIRMAN TOMPKINS:

Q Had Mr. Sheaffer made—excuse me, Mr. Kohn, you proceed.

MR. KOHN: Go ahead.

CHAIRMAN TOMPKINS: No, you go ahead.

BY MR. KOHN:

Q Had Mr. Sheaffer made any threats against anyone that promoted these many protests that were in the files?

A There was the daughter, I haven't her name before me, but is was the daughter of the two victims of this murder. This daughter at the time of the crime was kidnapped by the defendant and her life was threatened at that time and she feared for her life and so wrote the Board that if he be released, he may return to Perry County to do her bodily harm of some sort.

Q Can you give us roughly an idea of how long he served?

A Twenty-nine years and eleven months.

BY CHAIRMAN TOMPKINS:

Q Were there statements from anybody else that they feared he would do bodily harm to them if he were released?

A The general tenor of the letters from the residents of Perry Couny all indicated that feeling, that the residents as a group feared his return.

That statement was made to the Board at the open hearing by the district attorney of Perry County,

Q I notice in your brief you refer to him as being

emotionally unstable. To what period of time does that refer—at the time he committed the crime or at the time he was being released?

A The report says at the time that this report was made, which was April 26, 1955, he was then described by the prison psychiatrist as being irresponsible and emotionally unstable.

Q That was 1955?

A That was 1955. However, as I pointed out before, I see by my resume that the exact date of the later psychiatric report is not here. But in my mind it was May or June of 1956 when that psychiatric report was changed. At that time the prison authorities felt that he was a proper subject for parole.

Q He had been in there for twenty-nine years and was emotionally unstable and suddenly in a year's time he becomes emotionally stable for release?

A That is what the file shows.

CHAIRMAN TOMPKINS: Senator Fleming? Mr. Bell?

SENATOR FLEMING: No questions.

REPRESENTATIVE BELL: I have no questions, Mr. Chairman, but I have the file in front of me and I noticed that in 1956—and this was taken from the application for clemency—there was a fee of $1500 paid to Witkin and Eagan, attorneys of Philadelphia in 1954. In 1955 there was another application and there was no additional fee paid to the attorneys. In 1956, on two final applications the same attorneys, Witkin and Eagan, state that there had been no additional fee. I am just bringing that out for this Board's information. I do not know whether that is common practice or not.

THE WITNESS: I might state this, that if you would check the transcript on that open hearing, the last one which was in September of 1956, that Mr. Witkin stated to the Board words to the effect that he was interested in this particular client. And although I do not recall that he said he received nothing the import of his words were that he had received no fee. That was stated to the Board in open hearing, as I recall the testimony.

BY SENATOR YOSKO:

Q Mr. Evans, when you said there was a lot of publicity locally, were you talking about the time of the crime or the time of the commutation?

A I am talking about recently, within the last four or five months, when recommendation was made public in local newspapers and the prisoner was paroled as of January 7, 1957. Now, I am testifying to that of my own knowledge from reading the local newspapers and being a local attorney.

Q Did you, as an investigator for the staff, check to see what Sheaffer was doing now?

A No. I assume, according to the parole plan, he is working with the Salvation Army in Philadelphia. And the parole plan went into effect so recently I did not feel that anything would be gained by checking it at this time.

Q Did you check the parole report?

A Yes sir.

Q And is he in Philadelphia?

A I did not personally check to see that he was there, but the parole report said that he was to go to Philadelphia to the Salvation Army, as I recall it.

Q The report says that?

A Yes sir.

Q And what is his behavior as far as the report stated?

A Since his release in January of 1957? I do not know.

Q Does the parole report give any data on that?

A Well, not to my knowledge. I have not checked them. I don't know.

BY CHAIRMAN TOMPKINS:

Q Do you know how often the parole investigators make a report? You say he was only released in January of this year?

A That's right, approximately three months ago—almost four months now.

BY SENATOR YOSKO:

Q Well, whatever information you gave us, you gave us from the file?

A This is gleaned from the file. I have made no check into the parole—

Q You made no investigation of your own?

A None whatsoever.

SENATOR YOSKO: All right.

MR. KOHN: May I say, Senator, as far as paroles are concerned, sometimes the parole officers check them every week, sometimes every two weeks; they check them very regularly. But the parole officers' report to the main office doesn't come in sometimes for three or four months at a time. In other words, they keep a running file. And then they give a quarterly report.

SENATOR YOSKO: In any event, the parole officer's report was not checked by you or by Mr. Evans or by anybody on your staff?

MR. KOHN: It would not be in yet.

SENATOR YOSKO: Well, did you ask for it?

MR. KOHN: No, we had no reason to. We saw nothing in this case except the publicity gained and the facts in the case, to report to the Board. We felt we should do this in many other cases that were cited for scrutiny, because of the publicity they received. If you would like to have us check it, we will be very glad to do so.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Evans, you say the psychiatric report was changed. Don't you mean rather that there was a new psychiatric report filed?

A Yes sir.

Q The old one was not changed; it remained in the file as it was?

A Oh yes sir.

Q Now, who made the second report? Was it the same doctor?

A I do not believe so, but it came from the same institution, of course.

Q It came from the same institution. Did I hear the other day when we were talking about this that the new report was at the suggestion of the Board prior to releasing him?

A I believe that is correct.

Q Did they not suggest that a new psychiatric examination be made before they released him?

A I believe so. That is correct. At the same time it is my—I am certain that this is true—they had suggested

to the District Attorney of Perry County that he personally interview the applicant and at the hearing, at the open hearing, there was some discourse and some argument between District Attorney Kugler and the Members of the Board as to Mr. Kugler's findings, his own personal findings and his own personal opinion as to the applicant. And there was a fairly long and involved argument to the effect that Mr. Kugler felt after interviewing him that he was unstable. And he made a statement that he would be frightened to death for him and his family if this man were to be released and would move across the street from him, or words to that effect.

In answer to that—I cannot recall the exact Member of the Board: I believe it was Miss Blatt, but I am not certain—they then referred him to the most recent psychiatric examination, which I said was made in May or June of 1956, and I got the impression that they felt that Mr. Kugler was being unfair to the applicant. Now whether that was true or not, that was my own impression.

Q Were there any other reports, prison reports, in the file?

A Any other prison reports?

Q I mean, other than the psychiatric report?

A There was the general report, the general parole report, yes.

Q And what was the institutional record and the recommendation of the prison staff?

THE WITNESS: May I see that file, Mr. Wright?

MR. WRIGHT: Yes.

(The file was handed to the witness.)

THE WITNESS: As I recall, it was favorable.

BY MR. LOPRESTI:

Q In your analysis that you have before you, in the last paragraph, I think, you have some additional information which you have not given to us verbally?

A I do have the statement that the defendant has a good institutional record and was recommended by the prison staff.

Q He had a good institutional record and was recommended by the prison staff?

A Yes sir, that is the statement I made before.

Q The latest psychiatric report was at least not against him?

A No, I would say it was favorable.

Q Now, was this case called to your attention by any particular individual? At the outset, you said that some of these cases were called to your attention by members of the committee, others by the press and newspapers, and so forth.

A No, I cannot recall any particular individual calling this case to my attention.

Q It was just a matter of general information?

A It was a matter of general information, as I can recall, yes.

CHAIRMAN TOMPKINS: I think I might clarify that to this extent, that a letter was turned over to the Chairman of this Committee by a relative of the victims in this case and it expressed their fears regarding what this man might do because of his past threats. That is what led him to look into the case.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Evans, have you talked to any of the people concerned:

A No, I have no.

Q We are talking now of the relatives of the victim. Have you talked to any of them? Perhaps they were antagonistic rather than fearful. Have you checked to find out whether it was just a natural antagonism?

A I have not done so personally, except that I believe in the file here is a very extensive report from the Pennsylvania State Police.

Q And you did study that?

A I read through it.

Q Let me ask, what is the age of the particular individual?

A He was born in 1897. He would be fifty-nine years old in October.

Q Fifty-nine years old?

A He was fifty-nine years old in October. He had served twenty-nine years and eleven months of a life sentence.

Q Approximately thirty years of his fifty-nine had been spent in prison?

A Very close to thirty years, yes sir. As I stated before, I was unable to find in this file anywhere anything that would lead me to believe there was any improper influence of any kind on this Board for this person.

CHAIRMAN TOMPKINS: This was called to the attention of the committee primarily by reason of the fears of relatives of the deceased, wondering why he should have been released, with a background such as his.

SENATOR YOSKO: That is one reason why I asked whether anybody checked to see whether he is in Philadelphia with the Salvation Army at the present time.

THE WITNESS: I might say this in our own defense—

REPRESENTATIVE LOPRESTI: That was after—

SENATOR YOSKO: Well, it wasn't after, Mr. Lopresti, because the letter from the relatives of the victims came after he was released and they still say that they fear something is going to happen to them. I just wondered since he was released, what his behavior was and whether he was under the proper supervision of any agency.

CHAIRMAN TOMPKINS: Will you, Mr. Evans, get a supplemental report of this case from the Parole Board and file it with this committee?

THE WITNESS: I will, sir.

SENATOR FLEMING: Mr. Chairman, I do not know, I am asking for information. We are not here to investigate the judgment of the Pardons Board. We are not here to question their judgment. They have every right to pardon any person they see fit. The only scope of our investigation is to see whether or not there was political influence. I almost think, Senator Yosko, I am not finding fault you understand, but I think we are wasting time with going into whether the man is acting right or whether he is not. That is not any part of this investigation.

SENATOR YOSKO: It is not a part of the investigation, but the reason given for bringing it up was a letter that was received from relatives of the victims in which they stated that they had some fears of what might happen to them because of his release. And I just thought it might be advisable, since the question

was raised, to check to see where he is and what he is doing.

SENATOR FLEMING: I was not finding fault with your question. I did not mean that, but I meant that if we go into this in a lot of cases, we can be here for about six months wondering as to whether this man has become a proper citizen or has rehabilitated himself. That is no concern of ours, I do not think.

SENATOR YOSKO: I understand that, Senator Fleming, but the Chairman or somebody opened the door to that kind of discussion by saying that a letter was received from relatives of the victims. What we have to do is to follow through. If you are addressing your remarks to the Chairman as well as to me, you are right.

SENATOR FLEMING: There is no question that they were addressed to the Chairman.

CHAIRMAN TOMPKINS: Mr. Wright?

CROSS EXAMINATION

BY MR. WRIGHT:

Q Mr. Evans, I notice in your brief here you state Mr. Kugler referred the Board to a penitentiary report dated April 26, 1955 where the defendant was said to be "irresponsible and emotionally unstable," and that the psychiatrist at the penitentiary said at that time he was emotionally unstable. I wonder if you would refer to that report? Is there a report in there dated May 18, 1955?

A Yes, I believe I have the original report.

Q And what is the comment under "Psychiatric report" in the report so dated? What does the entry in the paragraph "psychiatric report" say?

CHAIRMAN TOMPKINS: What report are you referring to now?

A Under date of May 18, 1955, Eastern State Penitentiary, under "Psychiatric Report," it says, "No psychiatric treatment is considered necessary."

BY MR. WRIGHT:

Q And what does the psychological report in that same report state?

A "More maturity and stability with advanced age and is able to accept responsibilities. Adequate frustration tolerance level, and religious instruction will aid in adjustment and will offer guidance."

Q What does the paragraph entitled "Summary of Progress" state?

A "This inmate was received at this institution in 1927, and during that time has maintained and established an excellent disciplinary record with consistent improvement shown in attitude and adjustment. All reports are favorable. The inmate has made many attempts toward self-improvement. Since being admitted to this institution in 1932 on a life sentence, this inmate showed some difficulty in adjustment for the first ten years; however, with the gaining of more maturity and understanding, adjustment and attitude have shown definite and continued improvement over the last ten years with subsequent increase in stability. Stability is also in evidence by the vocational assignment for the same job in nineteen and a half years, and savings."

Q Now that is dated May 18, 1955?

A That is correct.

Q Now, can you find a report in the file anywhere dated April 26, 1955?

CHAIRMAN TOMPKINS: Mr. Kugler referred the Board to a penitentiary report dated April 26, 1955.

MR. WRIGHT: Well, Mr. Chairman, that is the penitentiary report that he was just reading.

THE WITNESS: Yes sir, I have one here dated April 26, 1955.

BY MR. WRIGHT:

Q And what does the psychiatric report in that one say?

A It has none. It has a personality index in which it says he has marked irresponsibility and emotional instability.

Q But there is no psychiatric nor psychological report in that penitentiary report dated April 26, 1955?

A That is correct.

Q Now, do you see any inconsistency which you can point out to the committee between the contents of the report of May 18, 1955 and that of May 23, 1956?

A On the report of May 23, 1956, which is the one I had reference to when I said it was made in May or June, 1956, sometime shortly before the commutation hearing, there is no difference in the psychological report as against April 26, 1955, and there is no difference in the psychiatric report as against April 26, 1955.

Q Then certainly for a period of one year there has been no change in the recommendation of the psychiatric staff or the psychological staff at the institution. Is that correct?

A I am not so certain that that is a fair statement to make. I assume that the—and I may be wrong on this—that the classification summary that accompanies these reports under "Personality Index," I believe that this personality index is a compilation of both the psychiatric and psychological report, and the personality index is where it is noted that he has marked irresponsibility and emotional instability.

Q Do you know when the classification summary was made?

A That is again April 26, 1955, according to the one that is attached to the report of May 23, 1956.

Q Did you study the report of the psychiatrist Dr. Joseph B. Keefer?

A I recall having read it.

Q Dated September 17, 1956?

A I can recall having read it, but I have no definite recollection of its contents.

Q Would you refresh your recollection, and since it is a lengthy document, would you summarize the doctor's recommendation?

MR. KOHN: Mr. Chairman, I do not know what Mr. Wright is driving at, but as far as I am concerned, we allege no irregularities in this case. Now to go over this thing again and go into the different psychological institutional parole officer's reports is only going to waste time.

SENATOR YOSKO: I know, Mr. Kohn, but it appears to me from what I just heard here now that the statement that he originally made and the statement contained in this summary here are at variance as to what was just testified.

THE WITNESS: I don't believe that is the case.

CHAIRMAN TOMPKINS: I do not think so. He said the prison report, and the prison report on the personality index does not indicate—

SENATOR YOSKO: It says that he was unstable and irresponsible.

CHAIRMAN TOMPKINS: Yes, that is the prison report.

MR. KOHN: That is the prison report and that is what he said. That is what the prison report said.

SENATOR YOSKO: The 1955 report that I have just heard—

MR. KOHN: That is what the prison report said.

THE WITNESS: When I made that statement in my resume, I took the words verbatim form the personality index from the Eastern State Penitentiary. I also stated in my resume that it was changed some thirteen months later, which we have just testified here.

MR. KOHN. Is there any quarrel, Senator Yosko, that it is in the prison report?

SENATOR YOSKO: No, I did not see the report, so I am not going to quarrel about it.

MR. KOHN: What are we trying to prove by wasting this time? When we say that is in the report, it is in the report. There has been a change in the psychiatric report. We are not even saying that the Board was not justified here after thirty-nine years. What we are trying to do is wash the case up because it has been called to our attention, that is all.

CHAIRMAN TOMPKINS: Where is that prison report? Where is that prison report?

THE WITNESS: Which prison report?

MR. KOHN: The one that you quoted.

CHAIRMAN TOMPKINS: April 26, 1955.

SENATOR FLEMING: Mr. Chairman, our own counsel has said this was one of the cases that he wanted and they checked. They found nothing wrong with it. I do not see why we are wasting our time on it.

SENATOR SCOTT: Mr. Chairman, I quite agree. I wonder why we are also, but since the case was brought up and since the implication was made that there was some inconsistency in the attitudes of the pyschiatric personnel at the institution, there seems to be the implication that there was an about-face made by them, and the Board therefore had no justification in acting favorably on this application. I want it shown that there was no inconsistency.

MR. KOHN: There is an inconsistency between what he read and the psychiatric report, is that right?

THE WITNESS: I went over the file.

MR. WRIGHT: No.

BY MR. WRIGHT:

Q I have a question which I would like to direct to Mr. Evans, which I think may tend to clarify the situation. You were reading a moment ago from the classification, were you not?

A Yes sir.

Q And apparently the statement which the district attorney made to the Board was gleaned from the classification report, did you not so state?

A I am not certain I understand your question. What statement are you referring to from the district attorney?

Q He stated this remark with respect to irresponsibility, emotional instability, and so forth. That would have been gotten from the classification?

A From the personality index, I think.

Q Do you know, Mr. Evans, when prisoners are classified in the state institutions?

A No, to the best of my knowledge they have a screening program when they are first admitted. I would assume that there was a psychiatric examination or evaluation given periodically; but as to when it is given, I do not know.

Q That is correct. When they are admitted they are classified to determine in which institution they are going to be confined; and subsequently there are, as your files indicate, other examinations given. Is that correct?

A As far as I know, yes.

Q Would the files indicate that the examinations are given as shortly as possible before the petition for commutation is going to be heard?

A I would say so, yes.

Q And there may be no correlation between the findings made at the time of the classification and at the time of application for relief before the Board of Pardons?

A They may be entirely different.

MR. WRIGHT: That is all.

MR. KOHN: He is prepared to go ahead with the next case.

CHAIRMAN TOMPKINS: All right. Do you have the file here?

THE WITNESS: Yes.

MR. KOHN: Yes, we have the entire file here.

(Discussion off the record.)

CHAIRMAN TOMPKINS: Pending receipt of the files, we have another case here which Mr. Kohn wants to bring before the Board.

DAVID KOHN, a witness called, being duly sworn, was examined and testified as follow on

DIRECT EXAMINATION

THE WITNESS: This is a case I digested, and not Mr. Evans. It is case No. A-3127, the Commonwealth against John Derkacz.

The first application was filed on May 12, 1955. That application is for a pardon. The sentence was $200.00 fine and costs of prosecution, and two nine-month sentences to run concurrently, in the Allegheny Couty Workhouse. The defendant was charged with making a false statement on an affidavit to a nomination paper, conspiracy to violate the election laws, and perjury. He plead not guilty and he was sentenced on April 11, 1942.

The name of the lawyer who defended him was Frank Schwartz, Esquire. He appealed to the Superior Court, No. 146, Pennsylvania Superior 293.

He had a previous record in 1939 for libel, which was nol prossed; a violation of the city ordinance, for which he got five days surety of peace.

This case, I might state at the outset, was before the Board twice and was turned down twice. Of significance in the case is the fact that this man was involved in the violation of the election law with thirty other persons, having fraudulently gotten names of candidates of the Communist Party on the ballot for a general election held on November 5, 1940 by means of false swearing to

affidavits and nominating papers; with having committed certain overt acts in pursuance thereof. That is his statement.

The record shows that he went around and got many people to sign these Communist nominating petitions, people who did not know what they were doing. He misrepresented the facts to them. And it is alleged in the parole report that the applicant solicited signatures on behalf of Earl Browder and others; that he took an oath before Hyman Schleisigner, a notary public, who is an attorney in Pittsburgh, whom I know personally, and who has been engaged in defending many Communist-charged persons; and falsely swore that the signatures signed on the petitions were with the signers' full knowledge of the contents.

BY CHAIRMAN TOMPKINS:

Q Now, Mr. Kohn, there were two applications in this case. They were both for pardons, were they not?

A They were both for pardons, sir.

Q When was the first application filed?

A The first application was filed May 12, 1955, and it was listed for the June sessions of 1955. The second application was filed on February 17, 1956, and was listed A-3126, June sessions, 1956.

Now, when this man applied for a pardon, he had been living in the State of Michigan for quite some time. Numerous letters were received by the Board of Pardons. He was represented by Pearse O'Connor, 719 Plaza Building, Pittsburgh 19, Pennsylvania, before the Board of Pardons.

BY REPRESENTATIVE BELL:

Q Mr. Kohn, does it give the fee that was paid on this application?

A I did not think that was important. I have not even looked at it, but I will, Mr. Bell.

Yes, the fee on the first application was marked at $250.00 and the fee for the second application was marked at $100.00.

BY SENATOR YOSKO:

Q What was the sentence again?

A Nine months; two nine-month sentences to run concurrently in the Allegheny Workhouse. You must remember this is a pardon, not a commutation.

CHAIRMAN TOMPKINS: He was out at the time he made the application.

BY SENATOR YOSKO:

Q How much of the nine months did he serve?

A He was out. He had been out a long time.

SENATOR YOSKO: He served the full time?

CHAIRMAN TOMPKINS: This is for a pardon.

SENATOR YOSKO: Yes, I understand.

THE WITNESS: I don't know. His application under those questions is not applicable. It could not be because it is a pardon.

The Parole Board attempted to get the Mayor of the City in Michigan and—by the way, the Judge did not oppose this, but said it was entirely a matter for the Pardons Board.

On November 5, 1954, Patrick V. McNamara, United States Senator, wrote to Mr. Derkacz, on his stationery as Senator of the United States, as follows:

> "I would like to take this early opportunity to personally thank you for your efforts in my behalf during this campaign.
>
> "Our success pleased me as much for the sake of our hard-working friends as for myself.
>
> "Rest assured that I shall try my utmost to perform my duties in the best interests of all the people of the State of Michigan.
>
> "Thanks again and with best wishes, I am,
>
> "Sincerely yours,
>
> "/s/ Patrick V. McNamara,
> Senator-Elect."

That was found in this file, and it is addressed to Mr. Derkacz.

On February 20, 1955, under the letterhead of "Michigan's DYNAMIC 16th Congressional District, Democratic Organization," the following letter is signed by John J. Plas, Chairman, Executive Board:

> "To whom it may concern:
>
> "This is a letter of recommendation for Mr. John Derkacz, 15035 Telegraph Road, Wyandotte, Michigan.
>
> "I have known Mr. Derkacz for approximately years and in that period of time have known to be respectable, honorable and above board. He is a happily married man, the father of one daughter with a future that he can only furnish.
>
> "He has ben a contributor to the Party and has personally helped in our past campaigns. The reason that I am aware of his political activity and contributions is because I have been Chairman of the Dynamic 16th from 1950 to 1952 and secretary for ten years prior to that time. I am at present chairman of the Executive Board.
>
> "In view of the above exemplary record for the past great number of years, serious consideration should be given his humble request.
>
> "With the hope that you will give such consideration, I remain
>
> "Respectfully yours,
>
> "/s/ John J. Plas,
> Chairman, Executive Board."

That letter was followed by another letter.

BY SENATOR YOSKO:

Q Mr. Kohn, what was the reaction to these?

A They were all turned down, sir.

Q What?

A They were turned down.

Q Well, if they were turned down, are you reading those cases just to convey the fact that there was some Communism attached to this, and letters were written?

Definitely not. I am reading this for the same purpose that the Attorney General introduced many letters, which were also turned down.

DEPUTY ATTORNEY GENERAL WRIGHT: Mr. Chairman, I would like to interpose here that all the cases which were presented by the Board of Pardons at the last meeting of this committee were acted upon favorably by the Board.

SENATOR YOSKO: Yes.

DEPUTY ATTORNEY GENERAL WRIGHT: No case was rejected by the Board.

CHAIRMAN TOMPKINS: Whether it is turned down or whether it is not, it is an indication of pressure being used on any Board, and I think it is pertinent to this inquiry.

THE WITNESS: Shall I go ahead, Mr. Chairman?

CHAIRMAN TOMPKINS: Yes, proceed.

THE WITNESS: June 17, 1955, on the same letterhead:

"To Whom It May Concern:

"Mr. John Derkacz, 15031 S. Telegraph Wyandotte, Michigan, is a member of the 16th District Democratic Organization of the State of Michigan. Mr. Derkacz is a hard worker and regular contributor to the Party. Any asistance that you can give to him would be appreciated.

"/s/ Henry V. Herrick, Chairman
16th District Organization."

The next communication is from the Township of Taylor, Supervison, Taylor Center, Michigan:

"To whom it may concern:

"I have been an acquaintance and friend of John and Julianna Derkacz of 15031 Telegraph Road, Taylor Township, Wayne County, Michigan, for the past six (6) years.

"Mr. and Mrs. Derkacz are known in our community as an honest and trustworthy family, their fine Christian character has won for them the respect and esteem of the community.

The Parole Board attempted to get a statement from—and I think there was subsequently an additional request by the Mayor of the City of Dearborn in this case, and the Parole Board was very intent on getting for the information of the Pardons Board data as to the present—

CHAIRMAN TOMPKINS: Isn't there a letter in there on the application from the Mayor of Dearborn?

THE WITNESS: I will get it in a minute.

The last application, I think, contains a letter from the City of Dearborn, which was submitted by Mr. O'Connor to the Board on July 27 1956, attention of Mr. Hean, as follows:

"Enclosed herewith please find the promised letter from the Mayor of Dearborn."

On the City of Dearborn stationery, dated July 5, 1956, appears the following letter, signed by Orville L. Hubbard:

"To Whom It May Concern:

"This is to certify that I have personnaly known of

Mr. John Derkacz
15031 Telegraph Road,
Wyandotte, Michigan

since about 1948, during which time he has been known to me to be a citizen of excellent charater enjoying a splendid reputation in this community.

"It is my candid opinion that Mr. Derkacz will faithfully, honestly and loyally serve in any capacity in which he may be engaged, and every consideration extended to him will be genuinely appreciated."

The Parole Board, pursuant to the receipt of that letter, received from the Bureau of Pardons and Paroles of the State of Michigan a report dated May 7, 1956, in which they say:

'It is our feeling in this matter that Mr. Derkacz' sole reason for obtaining a pardon from his previous convictions is so that he will be able to obtain a Liquor License from the State of Michigan Liquor Control Commission under his own name. Since the subject is currently operating a bar and is part owner in this business, but he cannot be a licensee himself. From the information contained in our previous report and what current information we have been able to obtain, it appears that Mr. Derkacz has been respectable and a law-abiding citizen since he has been in the State of Michigan. He is at the present time a respectable and legitimate businessman as far as can be determined at the present time in the City of Wyandotte, Taylor Township.

"The following was received in a telephone conversation with Mayor Hubbard after the above information was dictated:

"In a telephone conversation with Mayor Hubbard this date 5-7-56, Mayor Hubbard stated he knows of the subject. He first became acquainted with him several years ago when the subject operated a gas station in Dearborn. He has had more recent contacts with him in subject's capacity as President of the Ukaranian-American Club in Dearborn, but these contacts have not been extensive. Mayor Hubbard further stated in all his relations with and concerning the subject, he has found the subject to be reputable and reliable."

CHAIRMAN TOMPKINS: Any questions?

REPRESENTATIVE BELL: No.

SENATOR YOSKO: No.

BY DEPUTY ATTORNEY GENERAL WRIGHT:

Q Do you know how these letters reached the file?

A I would not know that, Mr. Wright. They are in the file.

Q I notice a number of them were addressed "To Whom It May Concern."

A I think you ought to ask Mr. Hean that. I would not know.

Q You do not know?

A No.

BY CHAIRMAN TOMPKINS:

Q Do you have any other cases here to proceed with?

A I stated to the Board, and I will state again, these were turned down.

BY DEPUTY ATTORNEY GENERAL WRIGHT:

Q The applications were denied in both instances?
A Both times, yes sir.
(Discussion off the record.)
CHAIRMAN TOMPKINS: We want to quit at 1:00 o'clock, because the Senate Caucus meets here then.
MR. KOHN: I would like to get on to Mr. Hughes.
CHAIRMAN TOMPKINS: How long is it going to take you with Mr. Hughes?
MR. KOHN: I would say at least an hour, perhaps.
CHAIRMAN TOMPKINS: Well, let us proceed with him, then.
REPRESENTATIVE BELL: Mr. Chairman, should not the record show that we have spent one hour and fifteen minutes on these other matters and that one of the reasons we went into them is because of a courtesy of Mr. McBride?
DEPUTY ATTORNEY GENERAL WRIGHT: No, Mr. Chairman, neither Mr. McBride nor I asked for any interruption of the schedule.
REPRESENTATIVE BELL: I know that.
DEPUTY ATTORNEY GENERAL WRIGHT: We are willing to proceed as usual. We don't want any interruption.

J. HAROLD HUGHES, recalled

DIRECT EXAMINATION

BY MR. KOHN:

Q Your name is J. Harold Hughes, and you are an Asssitant District Attorney of the County of Delaware?
A Yes sir.
Q Are you familiar with the DeVito case?
A I am, sir.
Q Will you give us the charge against DeVito, the date of the sentence and the Judge involved?
A He was sentenced March 16, 1956, to twenty-three months, on two charges of setting up a gambling house; one occurring August, 1955, and one occurring March 3, 1956. He was found guilty on January 16, 1956, of setting up a gambling house, and conspiracy.

BY CHAIRMAN TOMPKINS:

Q Was that a jury trial?
A Yes, a jury trial. He applied for a new trial, and while that was pending he was arrested again in Linwod, Delaware County; and on March 12, his attorney wrote and stated that inasmuch as he was arrested again, he was withdrawing his pleas, waiving presentment to the grand jury on the second charge, and asked to be sentenced the following Friday, which was March 16
On his first arrest he cursed out the arresting officer and told him that he would be in the racket as long as he wanted to be and that the officer could not stop him; and, of course, he did go out and get in the business again.

BY MR. KOHN:

Q Where was he operating from; do you know?
A The first time, in August of 1955, he operated from a restaurant at Third and Welch, which is near the river. He had a phone in the restaurant and a phone under a fictitious name in the basement of his restaurant.

BY CHAIRMAN TOMPKINS:

Q What time was that?
A August, 1955.
Q What town?
A Chester.
There was a break in the water system which flooded that cellar, and for two days he worked out of his home at 603 Lloyd Street, where he had a fellow by the name of—I think it was Green—paying, him $42.00 a week, to take the calls from the cellars.

BY MR. KOHN:

Q Green was apprehended at this particular address, was he not?
A He was apprehended August 11, 1955.
Q How many bets did he have on him, and what amount of money?
A One hundred ninety-some bets, totalling $450.00, at 1:30 o'clock that day.
Q In addition to that, was DeVito also operating at his store?
A Not just then, because, as I told you, there was a flood in the streets and his cellar was flooded out.
Q And $448.00 was that day's take?
A Four hundred fifty dollars, something like that.
Q How, in addition to this business that DeVito was in at this time, taking bets and having this employe, was he operating any legitimate business at this place?
A Yes, there was a restaurant there.
Q In addition to that particular business, was he employed anywhere?
A He was Secretary-Treasurer of International Longshoremen's Association at Chester.
Q Was that an active association?
A Yes, it was.
Q Was he getting paid there, too?
A Well, I could only assume that they do pay them.
Q Now, at the time when he cursed the officer and said that he would stay in the business as long as he wanted, where was he apprehended?
A He was called by telephone to appear at the magistrate's office, and then in his application he said he heard they wanted him and he presented himself, but that was because they made a telephone call for him to appear. They knew him. He had been arrested during August of that same year for being in some gambling house; the same year and same month.
Q Did he have a previous record?
A That was the only record that he had, being caught in this gambling house in 1955, for which the magistrate fined him $15.00. He has this item in 1940—Gambling, $10.00. It must be as an inmate of a house.
Q Will you tell us what the sentences were, and the particular number of the term?
A Four hundred ninety-two (492), September Term 1955—Setting up a gambling house; aiding and assisting others to gamble. He was sentenced to eleven months flat in the County Prison, and fined $500.00. Under 494, September Term 1955, he was sentenced to six months

at the expiration of the prior sentence on the charge of conspiracy.

Now, the next one was the June Term, 1956, remembering that he waived grand jury and plead guilty in March. That was for bookmaking. The crime was committed March 3, and he was sentenced March 16, the same date as the others, to $500.00 fine and six months flat in the County Jail, at the expiration of the two prior sentences.

Q That gives him a total flat sentence of twenty-three months, is that correct?

A That is right, sir.

Q That would put him within the jurisdiction of the courts of Delaware County for parole, if he wanted to apply there for a parole.

A Definitely it did. Under two years, the local courts may parole.

Q Did he ever apply to Delaware County for a parole?

A No sir.

Q As far as his sentence for the original charge was concerned, how did it compare with the sentence of Caserta for the minimum?

A Well, Caserta's was seventeen to thirty-five. I think Judge Bretherick recalled to you Salerno, which I tried. He was a banker, the same as this fellow whose was fifteen. Judge Bretherick called your attention to Fontaine, who got—

Q How does this man's sentence compare with those? He got eleven months on the one and six on the other. It was seventeen months, just like Caserta?

A It did compare with others of the same caliber of persons and crimes.

Q At the time this case came before the Board of Pardons, will you tell us whether or not Judge Bretherick received a request from the Board of Pardons for his opinion in this matter?

A When I received a copy of the recommendation and opinion, it stated that Judge Bretherick took no position.

Q That was according to the parole officer, is that correct?

A Well, that is what the parole officer said. I called Judge Bretherick's attention to that in a letter and he gave me a letter which he said I may present to the Board.

Q Will you read your letter to him and his letter to you, please?

A "March 20, 1957. In re—Louis DeVito.

"Honorable Arthur P. Bretherick,
Judge of the Court of Common Pleas,
Court House, Media, Pa.

"Dear Judge Bretherick:

"Attached hereto is a copy of the recommendation and opinion of the Board of Pardons in the above case.

"Your attention is particularly called to the following excerpt—

'The trial judge the Honorable Arthur P. Bretherick, gave to the Board no written report but stated to the Parole Investigator that he would take no position in this appeal. The District Attorney wrote the Board that he was opposed.'

"No doubt I will return to the Investigating Committee, and should you have any thoughts concerning this quotation, it is suggested that you write to me and I could present the same to the Committee."

And that is signed by myself.

CHAIRMAN TOMPKINS: What is the date of that letter?

THE WITNESS: That letter is dated March 20, 1957. We got notice of the commutation on March 6, 1957. The reply on the Judge's stationery addressed to me is as follows:

"I have before me your letter of March 20th with its enclosure in the matter of the action of the Board of Pardons in the Louis DeVito case.

"A Parole Investigator did call to see me and gave me the impression that he was from the Parole Board. I told him at that time that I did not see what the Parole Board had to do with the matter since they had no jurisdiction, the sentence being for less than two years. I did express my views concerning the Pardon Board, and those views have been confirmed by the action of that Board in the DeVito matter.

"I did not tell the Parole Investigator that I would take no position in this appeal. And I never received from the Pardon Board a copy of DeVito's application for commutation. Nor did I receive from that Board the customary letter requesting my recommendations in the matter.

"I understand that one of the reasons advanced by DeVito was that the sentence was severe because he had participated in some sort of a demonstration at Media. This is absolutely untrue. I never heard of and have not since heard of any demonstration that DeVito participated in. His other reasons are probably as fantastic. Does anyone with common sense believe that I would 'take no position' in an appeal in which such deliberate misstatements were made as in this case.

"Very truly yours,

"/s/ Arthur P. Bretherick."

CHAIRMAN TOMPKINS: Let that be marked as an exhibit and made a part of the record. I think perhaps a copy of your letter should also be marked as an exhibit, Mr. Hughes.

Letter dated March 21, 1957, from Judge Arthur P. Bretherick to J. Harold Hughes, Esquire—produced, marked for identification and received in evidence as Committee Exhibit No. 31.

AJP 4/1/57.

Letter dated March 20, 1957, from J. Harold Hughes, Esquire, to Judge Arthur P. Bretherick—produced, marked for identification and received in evidence as Committee Exhibit No. 32.

AJP 4/1/57.

BY CHAIRMAN TOMPKINS:

Q Now, do you know to what extent the Board commuted these two sentences?

A The first one, eleven months. They commuted it to eleven months expiring February 16, 1957. The next one they commuted from six months to one month, expiring March 16, 1957, and the third one was commuted to one

day, expiring March 17, 1957; so that he would have served twelve months and one day. However, he is still in jail.

Q Now, in regard to the commutation at this time by the Board of Pardons, when a sentence of this type is commuted, he is not put on probation or parole; and when he has served his time he is released; is that correct when a commutation of this type is granted?

A That is my understanding, there being no maximum sentence.

Q Had he applied for a parole before the courts of Delaware County, would he have been able to have been placed under parole and probation supervision by the Delaware County Courts?

A Yes, he would, because with the twenty-three month sentence, he would have gotten off for good behavior in four months and twenty-two days. So for those four months and twenty-two days, he would be under the parole Office of Delaware County.

Q In other words, with a lesser sentence he cannot be put on parole or probation unless it is done by the Delaware County Court?

A That's right.

Q Now, did you see the reasons given by the Board of Pardons for the commutation?

A Yes, I did, sir.

Q I call your attention to the reasons given that his accomplice was given a suspended sentence, while the applicant received a very severe sentence for this offense and I ask you what comments you have to make as to that?

A Well, Green, the $42.00 a week clerk, was working for DeVito, who was a banker. Green was receiving the bets over the phone from the cellars, and he plead guilty and was a witness against DeVito. And for that reason he suffered only $1.00 fine and costs, which is a usual proceeding anywhere.

Q Now the District Attorney opposed this commutation?

A Yes sir.

Q The Board further gives this reason for its commutation: "The applicant was secretary of the local International Longshoremen's Association at the time of his arrest. He has a minor criminal record and desired to have his name cleared so that he might return to his position as secretary and treasurer of the local Longshoremen's Association."

Do you know whether he has ever returned as the secretary-treasurer of the Longshoremen's Association?

A In September of 1955 was the election date, and he was not a candidate. He was free on bail. And Charles Teddy Scanlon was elected as secretary-treasurer and is presently there. And I call to your attention that the Board said, "They are commuting in order that he may return to that position."

There is nothing in the record before the Board of Pardons on which they could base it. And if he knew it, they knew it from some outside source. And I might call your attention to the application, under oath, where Louis DeVito says that he is the duly elected secretary and treasurer of the International Longshoremen's Association, which is not true.

BY CHAIRMAN TOMPKINS:

Q When was that statement made?

A This is dated August of 1956.

Q A year after another man was elected to that post?

A That's right.

REPRESENTATIVE BELL: Mr. Kohn, did you read from the reasons given for this commutation a statement that—

MR. KOHN: Well, here it is.

(Handed to Representative Bell.)

BY REPRESENTATIVE LOPRESTI:

Q Mr. Hughes, that wouldn't be an outside source if it is stated in the application.

A It would not be an outside source.

REPRESENTATIVE LOPRESTI: That is correct.

CHAIRMAN TOMPKINS: He is speaking of the outside source information, about the fact that he can return as secretary-treasurer.

THE WITNESS: So that he may return, yes.

REPRESENTATIVE LOPRESTI: We don't know that, but in this particular application he said that he was, and the Board could presume by that that it wasn't necessary.

CHAIRMAN TOMPKINS: Were there any remarks made by his counsel to the Board to the effect that he could or would return to that post?

THE WITNESS: No sir. His counsel said that he could be reinstated and they would give him a job as a stevedore. That is definitely said in here.

MR. KOHN: I don't want to get into a hassle about it. Mr. Hughes didn't know it, but it was in the confidential file. There is something on it.

CHAIRMAN TOMPKINS: Well let's let our counsel proceed with this. We might upset what he has in mind.

MR. KOHN: Well, Mr. Hughes wouldn't know about that. He said he did not know where the words—

BY SENATOR YOSKO:

Q Did I understand you to say that Mr. DeVito was still in jail?

A Yes sir.

Q You mean he never got out?

A He never paid his fine.

Q He is still in, then?

A Yes sir.

REPRESENTATIVE BELL: Mr. Chairman, I raise a question here, and I want to read to this Board from the Board of Pardons' application of Louis DeVito, A-3889, January Session, 1957. These are the reasons for granting a commutation, and this is signed by Messrs. Furman, Finnegan and McBride, and Miss Blatt: "Our reasons for making this recommendation are as follows:"

They give the first reason, the second, and the third reason is: "The applicant was secretary of the local International Longshoremen's Association at the time of his arrest. He has a minor criminal record and desires to have his name cleared so that he may return to his position as secretary and treasurer of the local Longshoremen's Association."

And then there is a fourth reason. I would like to call that to the attention of the Board.

SENATOR YOSKO: That could be, I don't know.

MR. KOHN: I want to point out to you—

SENATOR YOSKO: That sort of argument might have been presented during the hearing; I don't know. Did any body check?

MR. KOHN: We have it here. Mr. Hughes wouldn't know anything about it.

THE WITNESS: There was nothing of that in the argument.

MR. KOHN: No.

I might state, to clear up the question, perhaps, that the Parole Board's report to the Board of Pardons indicates that they give, under "Employer," on October 1, 1956, the following, "Agent personally interviewed Mr. Charles Scanlon"—Mr. Hughes had mentioned who is presently secretary and treasurer of the International Longshoremen's Union—"at his office at the above address. Mr. Scanlon stated that immediately upon applicant's release, his job will still be held for him, where he will be employed as a longshoreman at the rate of $2.48 per hour. He will then be elected again to his former job as secretary-treasurer, which he held prior to his incarceration. Mr. Scanlon stated that the applicant had an excellent reputation and was an excellent employe. He has known him since 1934, and stated his reputation while in the employe of the International Longshoremen's Association was excellent. Therefore, they would be more than willing to accept him again in the position he left."

You did not know anything about that?

A I did not know anything about that.

Q Now, Mr. Hughes, this fine was not commuted in this case, was it?

A No, it wasn't.

Q And he has not paid his fine and costs?

A No sir.

Q And he has not, as the Board suggested been able to return to his job as secretary-treasurer?

A No, he is still in jail.

Q Now, what do you think of the Board of Pardons' reasons for allowing a racketeer to get loose so that he can be re-elected as secretary-treasurer of the Union?

A Well, I am not going to say a word about what the Union wants. I am not going to say what the Union can do, or will or should do, but it seems to me the whole matter was merely arbitrary.

Q Did he clear his name as far as his criminal record is concerned?

A No, it can't clear his name.

Q Isn't it a fact that this was originally put on the application as a request for a pardon; or don't you know?

A Yes, it was originally for a pardon, and it was not even listed.

Q That's right. Was it specially listed?

A Yes, when he got a letter dated September 25.

Q When?

A September 25, 1956.

Q What did your files show when the application was filed; on what date was it filed?

A It was the October Session of 1956, but we received a letter on September 25, saying the case will not be listed on the calendar, and that this would be our only notice.

Q And this was a special listing?

A Special.

Q For what date; for what hearing date?

A October 18.

Q Now the rules of the Board of Pardons are that it cannot be listed for two months under usual circumstances.

A I think that is the rule.

Q And this was listed specially for a prior date?

A That's right, sir.

Q Did you receive any reason for the special listing of this case?

A No reason; just the usual letter that it was going to be held, that's all; likewise, the re-hearing was special.

Q Now, do you know when the re-hearing was granted?

A We received a letter on January 3, 1957 as to the re-hearing for January 17, in which they state it, but, of course, it will not appear on the printed calendar that has been distributed.

Q Now, do you know whether or not the original hearing was argued as a pardon or a commutation?

A The application was for a pardon. I know nothing about the argument on October 18. I have neither seen the transcript of the argument, nor do I know anything about it.

Q Did you receive, on January 3, 1957, a letter advising you of the re-argument or the re-hearing, rather, in the re-argument?

A Yes. This is apparently a letter from which I quoted a part. Yes, we received that.

Q Do you know whether Judge Bretherick received any further notice of this re-hearing?

A Judge Brethedick stated in his letter from which I read, and which is part of the record, that he received no notice of it, and I suppose that is neither the hearing nor a copy of the application.

Q Did you receive any copy of the reasons set forth for a re-hearing?

A In the letter of January 3, which I have before me and of which you have a copy sent to the Board of Pardons, it decided to re-hear the matter, and no new nor substantial reasons as required by the Board's rules are stated in the letter.

Q What position, if you know, did the District Attorney take on the question of jurisdiction at the orginal hearing?

A Well, he made a statement in which he thought that apparently the Board had no authority.

Q It was a question of jurisdiction because it was only a twenty-three-month sentence instead of two years; is that correct?

A Of course, I don't agree with that. They both have jurisdiction, according to my thoughts.

Q I think so too, but his position was at that time that the Board did not have jurisdiction, and I think we will agree that they had jurisdiction.

A In my opinion, they did

BY CHAIRMAN TOMPKINS:

Q They have concurrent jurisdiction up to two years and the Board has exclusive jurisdiction beyond two years.

A That's right, in my opinion.

Q Do you know whether or not another special listing was given to this case in January?

A Well, it was in the letter which we received dated January 3 as to a re-hearing. They stated it would not be printed on the calendar, but it had been distributed.

Q And that was put on the January 17, Thursday, list, was it not?

A Yes, that was the date it was argued, January 17, 1957.

MR. KOHN: May I have a minute or two to look over my file? If you gentlemen have any questions, would you please go ahead.

SENATOR YOSKO: Mr. Kohn, did you review the file?

MR. KOHN: Yes.

SENATOR YOSKO: Is there any evidence of political influence in the file?

MR. KOHN: I am only bringing out the facts; I am not going to comment—

SENATOR YOSKO: I asked you a question. Just say. yes, or no. Is there?

MR. KOHN: I haven't finished the case. I would not like to comment on it at this time?

SENATOR YOSKO: Well, in keeping with Senator Fleming's statement a short while ago, he said we were here to investigate political influence; and if there was none, why let's not waste too much time on it.

MR. KOHN: I agree with that. I think it is worthwhile that you are hearing the whole case.

Another thing, Senator Yosko, if it may please you, this case received quite a lot of comment. Judge Bretherick quoted on it and made certain comments. I thought it was necessary that we bring it up.

SENATOR YOSKO: All right.

BY SENATOR FLEMING:

Q You said that the fine was not paid. Does the Pardons Board have the right to remit a fine?

A The Pardons Board does have—well, he is expecting it.

Q But they have not done that yet.

MR. KOHN: I will say this, Senator Fleming, that I think it was a very unfair statement that appeared in the newspaper, and I tried to check it down. I tried to find it. I don't know what newspaper it was, but there was a quotation that the fine had been remitted in this case, and it had not been remitted.

BY SENATOR YOSKO:

Q When will his twenty-three months be up?

A The sentence was March 16, 1956, and he gets four months and twenty-two days. And what he does, Senator —he takes the pauper's oath under the Insolvency Act, and that takes three months in procedure, and he will be out at the end of three months from the commuted time.

BY REPRESENTATIVE LOPRESTI:

Q Well, can he take that oath if he owns a restaurant and has a business?

A The answer would be no. He could not take a false oath.

Q So we are presuming something that may not happen, in view of the fact that he is not a pauper, from what I gather.

A Well, his restaurant is closed.

REPRESENTATIVE LOPRESTI: Well, that still doesn't make him a pauper.

CHAIRMAN TOMPKINS: In other words, if he paid his fine today, he would be entitled to be released?

THE WITNESS: Certainly.

BY SENATOR YOSKO:

Q But the fact remains that he is still in the "jug."

A That's right.

BY CHAIRMAN TOMPKINS:

Q On the commutation he would have been entitled to come out on March 17, is that right?

A Yes.

Q If he intends to take the pauper's oath, then he would have to continue to serve a period of three months beyond March 17th?

A That's correct.

Q Ninety days, I guess, the statute says.

A I am not sure.

BY REPRESENTATIVE LOPRESTI:

Q Do you know whether that was the reason why he is being kept in?

A There could not be any other reason.

Q There couldn't be any other reason?

A No sir. That's the usual procedure.

Q I have heard the statement here many times that the Board of Pardons takes him to the gates of the prison, and from there on the Parole Board takes over. Now is it possible that after the Parole Board, the prison takes over? They don't put him out; they only take him to the gates. That is my understanding.

A I don't understand that phrase of taking him to the gates.

CHAIRMAN TOMPKINS: I also understand that what they meant by that was more or less a phase. They will grant the commutation, but unless they have the proper machinery for sponsorship and for parole jurisdiction, they will still remain in the pentitentiary until that machinery is arranged.

REPRESENTATIVE LOPRESTI: Or if he has done something else in the meantime in the prison whereby the prison itself will hold him.

REPRESENTATIVE BELL: Does that apply now?

REPRESENTATIVE LOPRESTI: I don't know.

DEPUTY ATTORNEY GENERAL WRIGHT: Mr. Chairman, this, I think, is the confusing element in this particular case: We have been usually dealing with indigent sentences where a minimum is commuted, in which event there is a contemplated parole supervision. This is a flat sentence which is being commuted, and there would be no parole.

REPRESENTATIVE LOPRESTI: Yes, I was just wondering whether the prison—

DEPUTY ATTORNEY GENERAL WRIGHT: The prison would have no warrant to hold him except for non-payment of the fine. I am not personally acquainted with the file but I agree with Mr. Hughes that that would be the only lawful basis for continuation of commitment.

REPRESENTATIVE BELL: Mr. Wright, as an impartial statement, if Mr. DeVito were being improperly imprisoned, he would have the right to a writ of habeas corpus.

DEPUTY ATTORNEY GENERAL WRIGHT: Certainly.

BY SENATOR YOSKO:

Q Mr. Hughes, I have a couple things on my mind: Who passes upon pauper's oath applications?

A The judge and the court does.

Q And then if he filed a pauper's oath, it would be up to the judges then to determine whether or not he was a pauper or whether he wasn't a pauper?

A Yes. I might say that follows as a matter of course. I never heard any petition in open court. It just simply follows after three months' time, and it seems to me that the three months are required, because of time needed to either advertise, or time elapsed to file; and if a man doesn't file, he is out at the end of three months as a routine matter.

Q When you say they don't pay too much attention to the determination as to whether or not the person is a pauper, then they are a little bit negligent with those petitions that are filed on the pauper's oath.

A Whether they file them or not, they are out at the end of three months' time.

Q How much was his fine?

A Fifteen hundred dollars.

Q Fifteen hundred dollars?

A Yes.

Q You say Mr. DeVito was a big operator?

A I would say he was a fair sized operator. He himself says that he was a numbers banker.

Q I just want to make the observation that he was a lousy operator and a lousy banker if he didn't have $1500.00 from all of his operations to pay his fine.

A The answer to that is that he just spent about $10,000 on fixing up this restaurant.

Q Then how could he possibly get out under the pauper's oath?

CHAIRMAN TOMPKINS: Is the resaurant in his name?

A I don't know that.

Q Should he make a pauper's oath if it turned out to be false, of course, you know he could be held for perjury.

A Yes.

BY SENATOR YOSKO:

Q Has it been proven that he spent $10,000?

A No.

Q You are just making that statement?

A I am telling you what the general impression is; that he had a well-equipped restaurant, with fine counters, fine stainless steel equipment which one would presume would cost $10,000.

Q What you are giving us now is your impression of who paid for those improvements.

A I presume he did, yes.

Q Then you are giving us your presumption?

A That's right.

Q But, as a matter of fact you don't know whether he paid for those improvements or not?

A I don't know whether he paid or if someone else did.

Q Then, I go back to what I said before. He was a lousy bookmaker and banker if he didn't have $1500 to pay a fine.

A Well, he has already paid a lawyer for a couple of cases, and he has paid to appear before the Board of Pardons. So I don't know—

Q How much did he pay the lawyer?

BY CHAIRMAN TOMPKINS:

Q What does the record show?

A It says he paid him $250.00.

BY SENATOR YOSKO:

Q He got off cheap. How much did he pay the lawyers in the trial?

A I don't know.

BY CHAIRMAN TOMPKINS:

Q Who defended him?

A James Cochlan defended him, and Francis Lord represented him before the Board of Pardons.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Hughes, under the circumstances, as you know them now, you would be willing to take back your statement that any information that the Board would have concerning his being reinstated in his position did not come from an outside source?

A I certainly will.

Q You will take that back?

A Why certainly, sir.

Q Now, isn't this case which Judge Bretherick took off on the latest grand jury down in Delaware County two or three weeks ago?

A Yes, this came out just about the time the grand jury was sitting.

Q And he made one of his famous grand jury speeches on this particular case, did he not?

A That's right.

Q Now you say that Judge Bretherick did not receive any notice of the original petition for pardon which was subsequently amended to commutation, I presume, but he did have notice of the petition being presented, did he not?

A His letter states that an Investigator of the Parole Board—and he told this Parole Board man that they had nothing to do with it—

Q Well, if it was an Investigator of the Parole Board, then, of course, he was a little bit out of line in telling the man who made that statement—

A The statement of what he thought of the Board of Pardons?

Q Yes, that they had nothing to do with it.

A The Investigator represented to him that he was from the Parole Board.

Q Yes?

A And he said the Parole Board had nothing to do with it which is correct, of course.

Q I am asking you now, was the Judge wrong in that respect?

A No, he was right.

CHAIRMAN TOMPKINS: You are referring to the Parole Board, and not to the Board of Pardons?

REPRESENTATIVE LOPRESTI: He is saying Parole Board.

THE WITNESS: Yes. The Investigator of the Parole Board, I am saying.

BY REPRESENTATIVE LOPRESTI:

Q Isn't it a fact that the Parole Board does the investi-

gating work for the Pardons Board, and does not the Judge know that?

A So I learned from the hearings. I never knew it before. None of them ever came before the District Attorney.

Q What?

A I said I learned that from these hearings—that the Parole Board does that work for the Board of Pardons. I did not know it before that.

Q Well, in any event, as a Judge, if either the Board of Pardons or the Parole Board would inquire about a petition being presented to the Board of Pardons, or to any other body, wouldn't that put him on notice; and if the man had his proper credentials, shouldn't he have registered an objection if he had one?

A The Judge says here, "it gave me the impression that he was from the Parole Board." Now if there is a further impression that he was from that Board, but doing work for the Board of Pardons, he doesn't say so here.

Q Well, as a matter of common sense, however, whether he was from the Board of Pardons or from the Parole Board, he was there inquiring about a particular defendant and considering a request for either pardon or commutation?

A I don't know that.

Q Shouldn't the Judge have registered an objection at that time?

A If he made himself as clear as you are saying now, he certainly should have, but apparently he did not make himself clear.

Q And if the Judge felt so strongly, at least strong enough to call it to the attention of the grand jury, couldn't he likewise have called it to the attention of the Parole Board by merely writing and stating that he had not received notice, but he still wanted to register an objection?

A The Parole Board inquiry had nothing to do with the Board of Pardons, so far as Judge Bretherick states in his letter.

Q But I am getting at this point: He knew, apparently, that this was a petition pending with the Parole Board.

A There is nothing in this letter to state that.

Q Well, the Board of Pardons, then?

A Because, if you recall, when he was here two or three weeks ago, he mentioned that case, Louis DeVito case. He mentioned nothing about his being before the Board of Pardons then, and they hadn't given their decision when he was here.

Q But he knew about it at that time, did he not?

A He did not say so here, to my recalling.

Q He brought it up in connection with the Board of Pardon's hearing.

A He brought it up in connection with the severe sentences of others; that was the only time that he mentioned that particular case; not concerning the Board of Pardons having it. Now that is my opinion.

Q Well, you don't think, then, that Judge Bretherick knew that there was a petition before the Board of Pardons?

A I don't think he did.

Q You don't think he did?

A I don't think he did.

BY MR. KOHN:

Q One other question: At the time of sentencing, Mr. Hughes, was there anything presented by his attorney in connection with the fact that this man might have been engaged in political work?

A Well, I wasn't at the sentencing, and Judge Bretherick says it is the first he ever heard of it, in his letter.

Q Do you know whether the same attorney represented the applicant at the sentencing and in his application?

A No, at the sentencing he was represented by James A. Coglan, and before the Board of Pardons, he was represented by Francis Lord.

Q So anything that Mr. Lord argued, his information would have been obtained subsequent to the sentencing? Lord was not there?

A He was not the attorney. I don't know whether he was there or not.

MR. KOHN: That's all.

CROSS-EXAMINATION

BY DEPUTY ATTORNEY GENERAL WRIGHT:

Q Mr. Hughes, you stated that if DeVito had been given time off for good behavior—and I would like to interject here a subsidiary question to you before I finish that one—to your knowledge, has his behavior been such that he would have been given time off for good behavior, or do you have information on that?

A I don't know whether in the file there is a letter from the Warden or not.

Yes, now wait a minute. His application in the County Jail—the statement is verified by the signature of the Warden and says, "My conduct during confinement has been excellent and have made an honest effort for self-improvement."

This statement is verified by the signature of the Warden of Delaware County, and it is a signature of John C. Gable, Warden, which I presume is the Warden's signature.

Q Then, if he had had some behavior, and had continued to manifest such behavior his sentence, in fact, would have expired; that is his confinement would have expired after he had served eighteen months and eight days; is that correct, reducing his twenty-three-month sentence to four months and twenty-two days?

A Well, it would be eighteen months and three hundred twenty-four days, I think.

Q Eighteen months and three hundred twenty-four days?

A Yes.

Q That would be far in excess of his original sentence.

A The original sentence was twenty-three months.

Q Yes, twenty-three months, less four years and twenty-two days? No, it is twenty-three months, less four months and twenty-two days, isn't it?

A Yes.

Q Well, according to my arithmetic, that is eighteen months and eight days. Does that sound approximately correct to you?

A Yes.

Q Then he would have, we can assume, been released at the expiration of that time, is that correct?

A Yes.

Q Assuming his behavior continued good?

A Yes, and his fine was paid.

Q Yes, of course. Well, he has not paid that now. Then his sentence was, in fact, commuted to twelve months and one day by the Board of Pardons, is that correct?

A Yes.

Q But, actually his sentence has been reduced by seven days more than seven months?

A Yes.

Q You don't know, of course, of your own personal knowledge, whether or not Judge Bretherick ever received or did not receive a notice of this hearing?

A I wouldn't know except what he said.

Q Now, what he said and what you said to him in your letter, which, in turn engendered what he said was, of course, before the Board at the time they heard this case, was it? None of that material was before the Board?

A Not according to the notes of testimony, no.

Q You just wrote the letter, I think, on the 20th of March this year?

A Yes.

Q So it could not have been before the Board, and neither could the substance of his reply?

A That's right.

Q That could not have been before the Board, because that would have been subsequent to March 20.

A That's right.

Q Now, did you object to the special listing of this case?

A Oh, no. There wasn't any reason for us to object. They had settled—

Q I know, but you did not object?

A No sir.

Q Did you have any reason to object?

A No real reason, no.

Q You had ample notice?

A Yes.

Q And you were amply prepared?

A Yes.

Q And you were not prejudiced in any way by the special listing?

A No sir.

Q Now, you stated that in the notice of the rehearing that you received there were no new reasons stated for the re-hearing.

A That's correct.

Q But you would not know whether or not any new reasons would have been presented to the Board, would you?

A No, I would have no reasons.

Q You only know what was sent to you, which was merely the notice that a re-hearing was going to be held?

A That's correct.

Q Now, I believe you told us that DeVito had no prior record, is that right?

A I mentioned two small magistrate arrests.

Q Magistrate hearings, but no prior record in the sense that we usually mean it?

A No sir.

Q Do you know whether or not Green had a prior record?

A No, I don't.

Q He received what sentence?

A One dollar and costs.

Q Did you try the case?

A No sir.

Q Now there was some comment made about the Board giving as one of its reasons for the release, for the granting of the application for commutation, that DeVito would be thereby enabled to return to his position as secretary-treasurer of the International Longshoremen's Association, Chester Division.

A Yes.

Q There was an implication that the Board was trying to foist upon the Union a man who had been in jail for some period of time, over their duly elected officers? Now, you would agree, of course—

A I did not imply that they were foisting him on anybody. And if you took that meaning, I don't think it is justified.

Now, in the interchange of ideas, of your thoughts along that line—I would say definitely that I don't imply that the Board was foisting him upon any Union.

Q Right, because, of course, you would agree that the Board has no power over whom the Union is going to choose.

A That's very true.

Q Even if the Board indicated that that was one of its reasons for releasing him?

A Yes.

Q Are you familiar with DeVito's financial circumstances or his domestic circumstances in any fashion?

A No sir.

Q Then all that you told us with respect to the diner, in fact you don't know, and you stated that you don't know that he paid for it?

A That's right.

Q I will go further and ask this: You don't know the value of the improvements, either, do you?

A No sir.

Q Are you familiar with the financial circumstances of Mrs. DeVito?

A No sir.

Q Would you be surprised to hear that she was on relief for a period of time as a consequence of this confinement?

A His counsel at the argument before the Board of Pardons said that she was working in Baldwin's.

Q In the cafeteria?

A Yes.

Q Did he state, do you recall, what the amount of her earnings was?

A He did, $25.00 a week, I think; something like that.

Q Do you recall whether or not he made any statement in connection with her being on relief prior to her position?

A I don't recall any.

DEPUTY ATTORNEY GENERAL WRIGHT: That's all, Mr. Chairman.

BY SENATOR YOSKO:

Q Mr. Hughes, I understand that Judge Bretherick complained in his charge to the grand jury about the Board of Pardons releasing DeVito and some other people?

A DeVito, I think was the only—yes, he may have mentioned others.

Q But, to the best of your knowledge, it was just DeVito?

A I think so, but it very well could be the other two whom we talked about here.

Q Did Judge Bretherick, in charging the grand jurors, at any time complain about the District Attorney's office of Delaware County recommending commutations or paroles for persons sentenced in Delaware County?

Q He never complained about the judges themselves

A I never heard of his doing that.

recommending commutations or paroles for persons sentenced in Delaware County?

A I never heard of that either.

Q I have a summary here of the cases that came before the Board of Pardons in 1955, from February 1955 to February 1956. If my count is correct of the 53 cases that came here before the Board, the district attorney's office was not opposed to 31 of them, and they involved robbery, sodomy, voluntary manslaughter, rape, burglary, arson and murder.

But the judge never complained about the district attorney's office recommending commutation or pardons in those cases?

Q I have never heard that he did, nor do I know that he should have in any of those cases without knowing each particular case.

Q But he didn't?

A Not that I know of.

Q I will show them to you if you want to see them.

A Unless I knew each particular case, I wouldn't know whether, in my opinion, it was justified or whether it was arbitrarily done.

(The document was handed to the witness.)

BY MR. KOHN:

Q You mean the judge?

A No, the Board's action, the district attorney's action.

BY SENATOR YOSKO:

Q Isn't it true, Mr. Hughes, that every case stands on its own merits?

A They sure do.

Q And if the Board of Pardons in the DeVito case thought the commutation was merited, do you think in the light of the record, that Judge Bretherick singled out just one case—

A Well, that was singled out because it was a case where the evidence presented to the Board of Pardons did not justify the action.

Q Well, there are a number of cases there where you can say the same thing because both the judge and the district attorney recommended either a commutation or a pardon and the Board of Pardons turned them down.

A Well, what is your question there?

Q The question there is that you people thought the application was merited and the Board of Pardons did not. Now in this particular case you probably thought it was not merited and the Board of Pardons thought it was merited. So it is just a matter of opinion?

A In these three cases that I am here on, it is not a matter of opinion.

Q You are here on the DeVito case?

A That's right.

In other words, if you take the opinion and reasons, they are not substantiated by the facts at all, nor by the arguments before the Board.

Q And are you contending now that the Board is wrong in commuting the sentence of DeVito?

A Certainly, sir. There was no basis for their action.

Q But would you say you were not wrong in recommending commutations in cases where the Board of Pardons turned them down?

A I would say that we could be wrong, certainly we could be wrong.

SENATOR YOSKO: All right.

REPRESENTATIVE LOPRESTI: Senator, you had here the other day a list of people who were connected with gambling. Do you have it now?

SENATOR YOSKO: I don't have that here. I am having it checked because I was told that some of the people engaged in gambling in Delaware County are Republican leaders of the Republican Committeemen and it reflects that they get light sentences as to others.

REPRESENTATIVE LOPRESTI: Well, since you don't have it, and since it was presented to the committee the other day—

CHAIRMAN TOMPKINS: I don't want that type of information going into the record now. If you are having it checked, let's have that check speak for itself when we get it.

SENATOR YOSKO: All right. I reserve the right to present the report when it is made available to me.

REPRESENTATIVE BELL: Mr. Chairman, may we also have a report for Northampton County, showing how many Democratic politicians get light sentences? If we are going to go into this, let's get the rest of the counties in too.

SENATOR YOSKO: I will tell you what I will do. I will be glad to sponsor an amendment to this resolution to give us the right to do that very thing.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Hughes, if, in the opinion of the Board of Pardons, the sentence in the DeVito case was not in keeping with sentences generally handed out in Delaware County for the same crime, especially in view of the fact that you have pointed out this morning there was no long criminal record of gambling; and if, in the opinion of the Board, that sentence was excessive, don't you think that that would be sufficient reason for the Board to grant a commutation?

A It would be if the Board had had something before it upon which it could base that it was an unfair sentence.

My position is in this case that there was nothing before the Board upon which they could make judgment and therefore their findings were arbitrary.

Q Do you think the Board does not know the policy of Delaware County?

A I think they don't, yes sir.

Q You think they don't?

A Unless it is presented to them.

Q Now then, the co-conspirator in this particular case gets a one dollar fine, right?

A That's right.

Q Don't you think the Board is properly considering what is given to a co-conspirator, a one dollar fine against a $1500 fine and 23 months, or whatever it was?

CHAIRMAN TOMPKINS: There was no conspiracy charge.

REPRESENTATIVE LOPRESTI: There was a conspiracy charge of 66 months on three different counts. And you have a $1500 fine here and 23 months.

Now, if, in the opinion of the Board that is excessive, is it not within their right to commute it?

THE WITNESS: In the argument by counsel it is said that Green plead guilty to bills of similar indictment. These cases are not similar. Green is a little $42 a week clerk, whereas DeVito is a banker.

Now, you cannot compare the two cases as to sentence; or at least, you should not.

BY REPRESENTATIVE LOPRESTI:

Q Well, certainly the Board did not either because they have handed out a sentence here which was considerably more than one dollar.

A That's right.

Q So the Board did not put him on the same basis?

A No sir, they shouldn't.

Q And they didn't, did they?

A Well, Green was sentenced and they cut the other man down to 12 months.

Q You mean that the Board doesn't know the practices in Delaware County of the courts to sentence and leave them out at the end of two and a half months? Do you think that the Board is not familiar with that policy?

A Right.

Q You think they are not?

A Right.

Q In other words, this is information peculiarly within the knowledge of Delaware County and no one else is aware of it?

A No sir, if that happens, then it should be presented to the Board for their judgment, but they cannot pull it out of thin air.

Q In other words, any information that they have they should not use, unless it is presented in that particular case?

A I don't say that. There may be things which are common knowledge and which no one says is wrong. They can use that, but what you are saying does not exist.

Q You mean it is not common knowledge?

A Right.

REPRESENTATIVE LOPRESTI: Well, I think that can be shown later, Mr. Hughes. That's all.

BY REPRESENTATIVE BELL:

Q Mr. Hughes, this other defendant's name was Green?

A Green.

Q Did he receive any other sentence besides one dollar and costs on any other indictment?

A No sir.

Q And did he do any time in jail, pending trial?

A Not that I know of, not that I know of.

Q And was this the only punishment he received, one dollar and costs?

A Yes, he is the one who testified against this man.

Q Was he the one who gave state's evidence?

A Yes.

BY MR. KOHN:

Q Did Green get caught the second time?

A Not since this time.

SENATOR YOSKO: The record in the Northampton County files since Judge Bartol has been there indicates that every person arrested who plead guilty and is convicted of gambling goes to jail.

REPRESENTATIVE BELL: How about the ones who turn state's evidence?

SENATOR YOSKO: There haven't been any of that kind.

BY REPRESENTATIVE LOPRESTI:

Q Will you give this committee Green's prior record for some future consideration?

A Yes, if there is one.

Q I don't know whether there is or not, but I would be interested in whether or not he had a prior record for gambling.

A I'd be glad to do that.

BY CHAIRMAN TOMPKINS:

Q Did you try the DeVito case, Mr. Hughes?

A No, I did not.

CHAIRMAN TOMPKINS: I think if my recallection serves me correctly, Mr. Kohn, in the argument before the Board—

MR. KOHN: Well, I haven't come to that yet, Mr. Chairman.

CHAIRMAN TOMPKINS: Excuse me, I will let you cover that.

BY DEPUTY ATTORNEY GENERAL WRIGHT:

Q Mr. Hughes, do you know whether or not Green is identified with the labor movement?

A No, I don't.

Q Have you worked closely during membership at the Bar in Delaware County with Judge Bretherick? Do you know him judicially very well?

A I know him, yes, sure.

Q You have worked with him frequently?

A I have been in his court when I was trying cases. I know him socially at Bar affairs and fraternal affairs, I know him and see him, yes.

Q Has he ever expressed to you or in your presence his general attitude toward the labor movement?

A Oh no, no.

Q Do you know an individual by the name of Fred Jack?

A Yes sir.

Q What is his position in Delaware County?

A He is the investigator for the sheriffs office.

Q Are you familiar with the visits which Fred Jack made to DeVito during his confinement in the Delaware County prison?

A Mr. Jack told me that DeVito had sent for him on several occasions, and he went out to see him.

Q What was the burden of their conversations?

A They were endeavoring to find somebody higher than Louis here.

Q In the gambling business?

A Yes.

Q Anything else?

A Thats all they told me.

DEPUTY ATTORNEY GENERAL WRIGHT: That's all.

BY REPRESENTATIVE BELL:

Q Mr. Hughes, before you leave the stand, what is your opinion of the State Board of Pardons turning loose a man who has been convicted of gambling so he can take a position of trust in confidence in a labor organization?

REPRESENTATIVE LOPRESTI: We have gone over that before.

A Well, it was implied that I had thought that and I had definitely said I did not imply such a thing. And I would say that any reason that is not right nor fair should not be a reason for turning a man loose.

I have no quarrel with their labor union. I know Scanlon very well. I know others.

BY REPRESENTATIVE LOPRESTI:

Q I don't follow your reasoning on this incident between Fred Jack and Devito. Do you mean that DeVito sent for him so that they could discuss an inquiry about finding somebody higher up?

A Yes.

Q Do you think a prisoner would send for somebody to make such an inquiry?

A Oh, that happens, yes.

Q Well, then, I presume if he sent for him, he must have given him some information on somebody higher up?

A Mr. Jack said he did.

Q He sent for him to give him some information on higher-ups and then did not give him anything?

A That's right.

BY DEPUTY ATTORNEY GENERAL WRIGHT:

Q And that was done several times?

A Yes, he said several times.

BY SENATOR YOSKO:

Q One more question: Do you know of any political influence that was used on the Board of Pardons that caused them to commute the sentence of Mr. DeVito?

A I know of no reason why they did it, and they did it, but I don't know what caused them to do it; whether it was political or not. So, the answer is no.

Q The answer is no?

A The answer is no. The only thing political in this was that his sponsor was listed in the application as James J. Connor, Democratic County Commissioner. That's the only thing I know. I know Mr. Connor. He is a fine fellow.

Q And by sponsor, what do you mean?

A In the application form they request the name and address of the sponsor if granted commutation, and then there appears the name of Mr. Connor as sponsor.

Q And what does a sponsor do? I just want to know what you mean by "sponsor"?

A Well, some responsible person who probably will interest himself in the man to see that he behaves and does not get into trouble again. That is the thought I get from that. Maybe the Board has other reasons, but that's the way it appears to me.

BY REPRESENTATIVE LOPRESTI:

Q Is Mr. DeVito a politcian, by any chance?

A Apparently he is. He says he is.

Q He probably isn't a member of the same party as Judge Bretherick?

A Apparently not, no.

BY SENATOR YOSKO:

Q Do you know what his registration is?

A It's supposed to be Democratic, and I feel it is. In fact, I talked with a fellow here the other day about the very fact that he was a Democrat.

REPRESENTATIVE LOPRESTI: I would think he was.

CHAIRMAN TOMPKINS: Any other questions?

MR. KOHN: That's all.

DEPUTY ATTORNEY GENERAL WRIGHT: No further questions.

(Witness excused)

MR. KOHN: I would like to recall Frank Hean.

FRANK R. HEAN, Recalled.

DIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Hean, you are the Secretary of the Board of Pardons?

A Yes sir.

Q I think you have been sworn in previous hearings?

A Yes sir.

Q I show you the application of Louis DeVito, No. A-3885, and I ask you on what date that application was filed?

A That was received by us on the 24th day of September, 1956.

Q And is that the only application that was filed in his case?

A That is the only application I had.

Q Now that is the only application and it was filed on September 24, 1956?

A Yes.

Q Now previous to the time when a man files an application, you make up no file? A man goes to prison or is incarcerated, but at that time you have no file for him, is that correct?

A That's right.

Q So that the first time you had a file for Mr. DeVito was September of 1956?

A That's right.

Q And previous to the time you received the application, you received no money as filing fee with the application?

A The application is accompanied by a $15 fee.

Q Previous to that time, you would have no reason for opening a file?

A That's right.

Q So, the first thing that ought to be in the file on DeVito, on his case, would be the application and the filing fee or some letter of transmittal, is that right?

A Well, we have no letter indicating that $15 had been paid. To keep a book account which shows the—

Q What I am getting at is, the first thing that appears in any particular file on any particular individual is the application or a letter of transmittal, sending such application, or an inquiry concerning the person from some attorney, or the applicant himself?

A Usually they do not write in saying that they want

a file. They only send in $2 to get this set of forms. And at the appropriate time they are returned to us, accompanied by a $15 sum of money, check or money order, and we received that in this case on the 24th of September, 1956.

Q And you would then have no reason for having any correspondence with any members of the Board of Pardons previous to the time the application was filed?

A I would have no such reason to my recollection.

Q And that was dated September, 1956?

I show you correspondence from yourself, as the Secretary of the Pardons Board, to all Members of the Board in regard to Louis DeVito, dated September 11, 1956. Is that the right date?

A That was received by us on the 11th of September —rather, I circulated it on the 11th.

MR. KOHN: May I read the letter to the Board?

CHAIRMAN TOMPKINS: That would be a matter of 13 days before the application was filed?

MR. KOHN: About 13 days.

Letter dated September 11, 1956, from Mr. Hean to All Members of the Pardons Board—produced, marked for identification and received in evidence as Committee Exhibit No. 33. AJP 4/1/57

MR. KOHN: I will read the letter:

"Commonwealth of Pennsylvania"
"September 11, 1956"

"Subject: Louis DeVito.

"To: ALL BOARD MEMBERS

"From: Frank R. Hean,
Secretary,
Board of Pardons.

"A request has been made to specially list the application of the above named. The applicant was sentenced by the Quarter Sessions Court of Delaware County to imprisonment for 23 months for the crime of gambling. The applicant is requesting a pardon for the offense.

"Ordinarily this application would be listed for November Session. However, as stated above, a request was made to one of the members of the Board for a special listing for the October Session. The October cases are scheduled for hearing on Thursday, October 18, 1956.

"Kindly indicate your vote and return to the Board of Pardons."

"THOSE FAVORING:	"THOSE OPPOSING:
"R.E.F."	"G.B." (9/17—Miss
"H.E.H."	"H.B.C." (Blatt changed (her vote to ("yes".)"

BY MR. KOHN:

Q Now if there wasn't any application filed or wasn't anything on the record, who asked for a special listing of a case that had as yet not been filed?

A All I recall is a man by the name of Lord. Francis R. Lord, wanted the case.

Q What is there in your record to show that?

A There is nothing in my record to show that.

Q Whom did the man speak to that you refer to in your note, that a member of the Board was spoken to by Mr. Lord.

A I have no knowledge of who did right now. I'd like to refresh my memory with some inquiries.

Q How can anyone possibly ask for a special listing of a case in which the application is not filed until 13 days later?

A Well, a man may have gotten this folder and wanted to file it and had to file it on or before a certain day in order to get in.

Q What is there in the case that entitles a man to a special listing 13 days before he is even on file?

A I am not the attorney for Mr. DeVito, but he would have his reasons.

Q What reason did they give you that they wrote that letter 13 days before the application was filed?

A The gentleman called me on the phone, as I recall, Mr. Lord.

Q Will you give me the date of that?

A I cannot give you that.

Q Did you make any notes on that call?

A No sir.

Q Is there anything in the file regarding that call? Do you know who the member of the Board was?

A No sir, I cannot presently recall who it was.

MR. KOHN: That's all.

THE WITNESS: May I just add this. There was some discussion.

BY MR. KOHN:

Q Between whom?

A Before the Board that Judge Bretherick never received a copy of this application that I have before me. That is the white copy. His name is here by the trial judge as Arthur P. Bretherick. We had checked it that on the 25th day of September, 1956 there was mailed to Judge Bretherick a white copy of this application.

Now whether he actually received it or not, I do not know.

Q Let's get back to what I am inquiring about. Go back to September 17, which is again six days before this application was filed, and you tell us what happened that Miss Blatt changed her vote as noted by you thereon?

A That is beyond me. She had her good reasons and she is right here in this room.

Q Do you know any reasons?

A No sir, I would have to guess, and you don't want me to guess around here.

Q You don't know why she changed her vote six days before this application was filed?

A I don't know why she did it.

Q Then you still don't know who the member of the Board was who was talked to.

A I have no recollection of who the member of the Board was.

MR. KOHN: All right.

BY SENATOR FLEMING:

Q Is this unusual procedure to especially list cases like that?

A No, when an attorney—and we try to accommodate the members of the Bar of our state—when an attorney would say, I am sending in an application that I want

heard for a particular reason, can you give it prior listing, I said I cannot do so without the consent of the Board. The Board meets in executive session. I would give him the date. And in this event, he said, that is too late; will you do me a favor. And I will try to do it, and this is the way I did it. I circulated a notice whether or not the members of the Board were agreeable to a prior listing, that's all, with nothing complicated about it.

Q In the last two years since you have been Secretary, about how many times has this been done?

A Well, Senator, you are asking me again to hazard a guess.

Q Well, approximately?

A Anyone from six to a dozen. That happens, not too frequently, because it jams up our work tremendously so far as detail goes.

Q You would have to have pretty sound reasons for granting it, the Board would?

A Well, I gave you in brief, what he wanted—to have it listed prior to the regular scheduled date, and the Board agreed to it, at least two members did.

BY MR. KOHN:

Q Are you testifying under oath that this request was made to you by Mr. Lord?

A Mr. Lord telephoned me.

Q Why do you say in there that the request was made to one of the members of the Board? Are you a member of the Board?

A No, but that may have come through a member of the Board. I know I talked to Mr. Francis Lord, of Media, on the problem.

BY REPRESENTATIVE BELL:

Q I have a question on procedure: If a petition is filed of, say, September 27th, isn't that sufficient time to put it on the January list?

A Yes, yes. There is only a two-month interval.

Q Well, what list was this originally placed on?

A This was originally placed on the October list.

A This was originally placed on the October list. You see we only had the one-month rule then. Then we changed it because about that time it was made a two-month interval instead of one-month, and we were driving to have the two-month interval. Now Mr. Lord did not want it that way.

BY MR. KOHN:

Q How long does it take you to get your Parole Board on a case like that when it is filed on September 24 and your hearing is on the 18th?

A Well the Board on an emergency gave us pretty good service.

Q Was this pretty good service?

A I don't know.

Q You did get your report just about October 2?

A Dated the second. We got it the fifth.

Q Who makes the request to the Parole Board?

A We do.

Q And when did you make that request?

A Well, it must have been prior to the second day of October, but just what date I could not tell you.

Q And how long does it ordinarily take for you to get a report when there is no special circumstance?

A About four weeks.

Q And what was so special about the DeVito case that it had been especially listed and specially investigated and specially heard?

A Well, Mr. Lord who had requested it—and I recognized that as a fair request because I like to help the attorneys of our state.

Q You were helping the attorney in getting a special report from the Parole Board?

A Yes sir.

Q What was so special about this special report?

A I don't know. He wanted it that way.

Q Do you do everything everybody wants?

A Not everything, but everything I can do to help, yes sir.

Q How many other special reports have you gotten in the last six months for any attorney?

A That's a hard question.

Q Well, do you recall?

A Not off-hand, no.

Q Do you recall any six months prior to that?

A I have no recollection.

Q Do you recall any in the last two years?

A Not off-hand. I would have to look over the folder.

Q Well, will you do that and show us how many special reports you have gotten and how many listings were made before the applications were filed and give them to us at Wednesday's hearing?

A I can do that.

BY REPRESENTATIVE BELL:

Q Had you ever met Mr. Lord previous to this request?

A I had met him. Well, it must have been a year ago or more that I met him.

Q Is he someone you know or is he a stranger?

A Well, he is an acquaintance, let's put it that way.

Q Did anyone beside Mr. Lord contact you with respect to this special listing?

A Mr. Lord was the only one I talked to, Francis Lord of Media. He has his offices there, I believe.

Q And did you receive any messages indirectly from other people?

A Not to my recollection, no sir.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Hean, at the time that application was filed, you had a 30 day requirement?

A Yes sir.

Q Now then, if an attorney were to walk into your office, say 25 days before the hearings were scheduled, and you'd tell him that he had to wait for two months, almost, and he said he would like to have it heard before that, would you at that point say, he would have to get a special listing and you would have to circulate it to the Board?

A Yes.

Q And if he set forth some reason why he wanted to have it heard in the next listing, then you would submit that reason to the Board?

A In a round-robin, as I would call it, request for their approval or disapproval.

Q Now do you have anything in your file to indicate that a notice was sent to Judge Bretherick?

A For the re-hearing?

Q Well, anything?

A I have this in my file. This original was mailed to him on the 25th of September, mailed to the courthouse to the attention of Judge Bretherick; whether he actually got it or not, I wouldn't know.

Q Well now, what do you have, just the notation on the original that the copy was mailed, or do you have a carbon copy of a letter?

A No, just a notation on this stamp of the processing of this application in our office.

Q Now if that white copy had not been sent, would it ordinarily remain in the file of the Board?

A It would remain there if we had not mailed it. There would have been one white extra copy in the file.

Q Was there a white extra copy in your folder?

A I cannot recollect?

Q Do you have the folder before you?

A I have the folder before me. It was taken from our files by Mr. Kohn.

Q And is there now an extra white copy in the file?

A Not in this file. And I have no recollection of seeing it around the office.

MR. KOHN: I will state there was none there.

MR. LOPRESTI: There was none there.

BY REPRESENTATIVE LOPRESTI:

Q Then would you presume from that it had been mailed?

A I would take a very strong position that we mailed it to Judge Bretherick on the 25th of September, 1956. Now whether he got it or not, sir, that is beyond me. Mail does go astray.

REPRESENTATIVE LOPRESTI: All right, Thank you.

BY SENATOR YOSKO:

Q Isn't there a copy of a letter of transmittal in your file?

A No, we put the application with what is inside of it, that we have on that date, with a transmittal form and mail it requesting the judge to express his opinion as to the merits of the application.

BY CHAIRMAN TOMPKINS:

Q You don't keep copies of the transmittal letters?

A No.

BY SENATOR YOSKO:

Q Might it not be a good idea to keep copies?

A Well, you said it. It's just another note that we would have to file and put in here. We are rather short handed, too, Senator.

BY MR. KOHN:

Q Did you say that Mr. Lord talked to you about this case and filed the application?

A Mr. Lord talked to me over the telephone.

Q Will you read the first paragraph of Mr. Lord's statement before the Board of Pardons on a hearing about October 18, 1956, into the testimony, please? Just read that first paragraph of Mr. Lord's statement addressed to the Board.

A "I have here a copy of the application filed by this applicant which I had no part in filing, and I notice there was crossed out, 'commute my minimum' and 'commute my maximum." That would indicate that he has made a request for a pardon."

Q So Mr. Lord now says everything contrary to everything that you said he said was not a part in filing the application?

A Well, I don't see how he can say it.

Q Well, he said it to the Board of Pardons and he did not have an investigation at that time, did he?

A He said that?

Q It is in the testimony right before the Board of Pardons.

A Yes, there is no question about it.

BY REPRESENTATIVE LOPRESTI:

Q You see, however, Mr. Lord's name is signed as the attorney?

A As the attorney.

Q Is that signed or typed in?

A That is typed in. It may well be what he means by preparation is that he did not do the actual typing there. However, I am just assuming that.

Q Well, the application says that Lord was the attorney?

A Yes sir.

Q And Mr. Lord showed up at the hearing as the attorney?

A He did.

BY MR. KOHN:

Q The thing I am trying to get at is, how could Mr. Lord have filed it when first you said he was going to file and then you said he did not file it? Is your memory faulty?

A Your question is a good question. He did call me on the phone. There's no question about that.

REPRESENTATIVE LOPRESTI: Is Mr. Lord present in the room?

MR. KOHN: He is here.

CROSS EXAMINATION

BY DEPUTY ATTORNEY GENERAL WRIGHT:

Q Mr. Hean, do you recall what reason Mr. Lord gave you in his testimony for his desiring the special listing?

A He felt—he gave me, this as my recollection—he felt that the family of Mr. DeVito were in straitened circumstances; and that in order for them to get from under the burden that they were carrying, he felt that if we could get a prior listing and the Board would act favorably the DeVito's whole situation would change.

Q In other words, he represented to you that their financial circumstances were so bad that even one month delay would make them virtually unbearable, is that correct?

A Yes sir.

Q And he asked you for that reason primarily, to relieve the financial burden of the man's family, that the man's hearing be accelerated?

A That's right.

BY MR. KOHN:

Q Is $250 the usual fee in this case?

A That would be a fair fee. I have seen it up to $1500, but not for a gambling case, of course.

MR. KOHN: That's all.

THE WITNESS: The fees have all gone up, Dave, in the last year.

CHAIRMAN TOMPKINS: Well now, unfortunately there is another Body who wants to use this room at one o'clock. It now being a quarter to one there is no sense in trying to take any additional witnesses today.

REPRESENTATIVE LOPRESTI: If Mr. Lord is in the room and if his testimony would be brief enough, I would suggest that we hear him.

MR. KOHN: I would object on the grounds that I have a great deal of examination of Mr. Lord. It is going to take a long time and I am not saying this to delay the proceedings.

SENATOR YOSKO: Was he subpoenaed to come here?

CHAIRMAN TOMPKINS: He, no doubt, was called by the Board of Pardons.

MR. KOHN: He was called last week, and I am prepared to proceed.

REPRESENTATIVE LOPRESTI: What is your schedule?

CHAIRMAN TOMPKINS: Our schedule is to recess now until 10:00 o'clock Wednesday morning, at which time we will finish this and take up again other matters. I cannot definitely state yet whether or not Darcy will come up because we will wait for an answer from several witnesses at that time. Perhaps we will have to contact them this afternoon and find out.

REPRESENTATIVE LOPRESTI: Well, we will continue on this particular matter on Wednesday morning?

CHAIRMAN TOMPKINS: Yes. And if the other witnesses cannot get here, we will them proceed further with Mr. Evans or other cases that we have.

REPRESENTATIVE LOPRESTI: I just want to inquire for the purpose of allowing Attorney General McBride to call witnesses on behalf of the Board on Wednesday.

CHAIRMAN TOMPKINS: When we finish, it is my understanding that when our presentation of the DeVito case is completed on Wednesday, then they will be given their opportunity to put on their witnesses in the case.

REPRESENTATIVE LOPRESTI: Thank you.

ATTORNEY GENERAL McBRIDE: And Mr. Finnegan, whom we did not have time to put on the other day, will be available.

CHAIRMAN TOMPKINS: Well, we will finish with DeVito and then we will have to take up the question of the others, because depending upon our witnesses in the other case, we have to schedule ourselves on that. We are not going to deny anybody the right to be heard during the course of this hearing. I want that strictly understood. However, sometimes we just are blocked off a little bit.

ATTORNEY GENERAL McBRIDE: But you remember, Mr. Chairman, you were talking specifically; you and I and Senator Scott, about the fact that we allowed a day and it took much longer to present our case than we had anticipated. And I had said we were going to call Secretary Finnegan and I thought that the three of us agreed that we would follow through before going on to the Darcy case.

CHAIRMAN TOMPKINS: Unfortunately, we sometimes find ourselves in the same jam. We will try to work it out to everybody's satisfaction.

SENATOR YOSKO: Mr. Chairman, I had asked you to schedule six or seven cases for hearing. I would ask that they be scheduled before the Darcy case is heard, not that I care whether you hear the Darcy case.

Do you intend to reply to that, or shall we have a committee meeting on it?

CHAIRMAN TOMPKINS: I think we should have a committee meeting on this and further program our schedule on this, Senator. Certainly we are going to hear them. We are not going to deny you the right to have those cases heard.

We will now recess until 10:00 o'clock Wednesday morning.

(Whereupon at 12:45 p. m. the hearing recessed until 10:00 a. m., Wednesday, April 3, 1957.)

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same

A. J. PLESCE.

Reported by:

Anthony J. Plesce
Box 582
Harrisburg, Penna.

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION NO. 1, PRINTER'S NO. 8

AT HARRISBURG, PENNSYLVANIA
APRIL 3, 1957

VOLUME IX

PATRICIA L. SAYER
P. O. Box 496
Harrisburg, Penna.
CEdar 2-2832

INDEX

Joseph H. Miller	1589-1600
Thomas D. McBride	1600-1606
Frank R. Hean (Recalled)	1607-1616
Thomas D. McBride	1619-1686

BEFORE
JOINT LEGISLATIVE COMMITTEE
TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION
No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a. m., Wednesday, April 3, 1957.

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR JOSEPH J. YOSKO.

Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

VICTOR H. WRIGHT, ESQUIRE, Deputy Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel).

JAMES K. ARNOLD, ESQUIRE, 2109 Market Street, Camp Hill, Pennsylvania
For—Committee (Assisting Counsel).

SENATOR YOSKO: Mr. Chairman, before we begin this hearing, I just want to say that I am a little bit disturbed by a newspaper story appearing in the Philadelphia Inquirer dated Wednesday, April 3.

The headline reads, "McBride Reported Pushing Witkin for New Judgeship." It says, "Attorney General Thomas D. McBride was reported today to have obtained a commitment from Gov. George M. Leader to appoint former Republican County Commissioner Morton Witkin as a Philadelphia judge if the Legislature creates Common Pleas Court No. 8.

"The plan to appoint Witkin, former Philadelphia GOP 13th Ward leader, by the Democratic Governor on the recommendation of his chief legal officer, was said to have been approved by Representative William J. Green, Jr., chairman of the Democratic City Committee, but as yet has not been given the blessing of Councilman Wilbur H. Hamilton, Republican organization head.

"The official connection between McBride and Witkin has not been disclosed, but it was regarded as significant that both represented David Darcy, convicted Feasterville Inn killer, who was spared from the electric chair by the Governor on recommendation of the State Board of Pardons.

"McBride represented Darcy during a new trial plea before the State Supreme Court, while Witkin was co-counsel with J. Dress Pannell, personal attorney for Matthew H. McCloskey, Philadelphia contractor and Democratic politician, during the killer's successful fight before the all-Democratic Pardons Board to have his death sentence commuted to life imprisonment."

It goes on to talk about the Pardon Board and prospective witnesses. The thing that disturbed me was that we are conducting these hearings, and eventually the Darcy case will be called. As I understand it from our counsel, Mr. Witkin will be one of the witnesses. It appears to me that the general public, in reading this story, would gather the impression that there is some sort of deal in the making that would reflect upon the testimony of Mr. Witkin. I do not know what he is going to testify to, but the public might gather that it would reflect upon the testimony that Mr. Witkin might give before this Board.

It also seems to me that this story is an effort to discredit the Attorney General of Pennsylvania, and I am assuming, because he is the Attorney General and one of the officers in the Philadelphia Bar Association, and in my opinion, because of the implications in this story, insofar as they are reflecting upon the hearings that are being conducted here today, I think it only proper that we call Mr. McBride, who is here, and have him testify as to the substance of this story. I want to know whether he ever talked to Governor Leader about appointing Mr. Witkin. I want to know whether he ever talked to Mr. Green or Mr. Hamilton or anybody else about appointing Mr. Witkin as a judge in Philadelphia or in any other capacity.

Mr. Chairman, I now request to call and place under oath Attorney General McBride so that we can ask him a number of questions relating to this story.

Mr. McBride, will you take the stand, please?

CHAIRMAN TOMPKINS: I have no objection to the Attorney General testifying with regard to the matter that you have outlined, Senator. I also feel that, if you are going to comb this particular story which you read in the paper, from what source they got this information I don't know, that should the author of that article also wish to testify as to the source of his information, he should also be given like privilege.

ATTORNEY GENERAL McBRIDE: Perhaps he should be given an opportunity first, even before I testify.

CHAIRMAN TOMPKINS: If he cares to disclose under his newspaper immunity, yes.

ATTORNEY GENERAL McBRIDE: I suggest that the proper manner would be to give Mr. Miller the first opportunity.

SENATOR YOSKO: If Mr. Miller wishes to testimy, I suggest that he take the stand and we administer the oath and ask him some questions.

MR. MILLER: I am not taking the stand. The story says that Mr. McBride says he had nothing to do with it. If you read the story, why don't you read it all? I am not going to reveal my source of information.

SENATOR YOSKO: I said there is an implication in this story.

MR. MILLER: You can imply all you want to. Mr. McBride's position was defined in the story.

SENATOR YOSKO I said there was an implication that there was some sort of deal on that would reflect on the testimony that might be given by Mr. Witkin. I understand, Mr. Miller, and I am your friend, but it reflects adversely on this Committee.

MR. MILLER You are just trying to find out my source of information, and you cannot make me disclose it.

SENATOR YOSKO: If you don't want to, you don't have to; but I want to ask Mr. McBride.

ATTORNEY GENERAL McBRIDE: He can take the Fifth Amendment if he wants to.

CHAIRMAN TOMPKINS: I do not think this immunity comes within the Fifth Amendment. He has his rights the same as an attorney or a doctor has.

ATTORNEY GENERAL McBRIDE:I don't think that is so. I don't think anybody has a right to lie.

MR. MILLER: Your position was defined in there.

ATTORNEY GENERAL McBRIDE: Untruthfully.

SENATOR YOSKO: Will you take the stand?

ATTORNEY GENERAL McBRIDE: I would be delighted to take the stand.

MR. KOHN: I don't think Mr. McBride need be sworn.

ATTORNEY GENERAL McBRIDE: Thank you very much.

MR. KOHN: I would expect you to do the same thing.

ATTORNEY GENERAL McBRIDE: I would do the same thing, but I would prefer to be sworn.

CHAIRMAN TOMPKINS: I would rather get this matter cleared up first in the other direction generally, if I may.

Would you care to be sworn, Mr. Miller?

MR. MILLER: All right.

. . . JOSEPH H. WILLER, having been duly sworn was examined and testified as follows . . .

CHAIRMAN TOMKPINS: Let us get Mr. Miller's questions and answers here and get a proper record made on it.

BY SENATOR YOSKO:

Q. Mr. Miller, in your story under your by-line appearing in the Philadelphia Inquirer, Wednesday morning, April 3, you state that Thomas D. McBride was reported to have obtained a commitment from Governor George M. Leader to appoint former Republican County Commissioner Morton Witkin as a Philadelphia judge if the Legislature creates Common Pleas Court No. 8. Will you give this Committee the basis for that statement?

A. I can't give you the basis for it because I won't disclose my source of information. As a newspaperman I respect the confidence placed in me. You have no right to ask me for my source of information.

Let me explain this. You regard your Committee discussions as sacred, and a newspaperman regards his source of information as sacred. You never disclose what goes on in a Committee meeting, and I have the same right as you do to protect my source of information.

REPRESENTATIVE BELL: That is my understanding of the law.

ATTORNEY GENERAL McBRIDE: That is not my understanding of the law.

BY SENATOR YOSKO:

Q. I am not questioning your right to write stories, but when they reflect upon the hearings that are being conducted here in connection with this investigation—

A. I have no intention to reflect on the hearings whatsoever.

Q. We must properly inform the public. This is either true or it is not true. If it is true, we ought to know because we can be guided accordingly when the witnesses that you named here in this story come before this Committee. I am going to ask you now, Mr. Miller, would your answer be the same in connection with any questions connected with this story?

A I am not going to reveal my source of information. So long as you proceed along that line, and you can all you want to, I will not reveal my source of information to you or anybody else, not even my publisher, and I never do.

SENATOR YOSKO: I have no further questions.

BY REPRESENTATIVE LOPRESTI:

Q Do you have a source of information on this story, or is it conjecture?

A I certainly do have a source—you mean on that story?

Q Yes. Or is it just a matter of conjecture on your part?

A No. This is from a responsible source, a source I regard as responsible.

REPRESENTATIVE BELL: Mr. Chairman, I wish to state that I am in accord with the opinion that Mr. Miller's information is a privileged communication, and I think the Attorney General will concur in that also.

CHAIRMAN TOMPKINS: Yes. I don't think that is the law of Pennsylvania and the law of the United States. It is very clear on the immunity of newspaper reporters.

SENATOR YOSKO: Mr. Chairman, that question is not being debated. He can either answer the question or refuse to answer it. Now he refused to answer it so far as I am concerned.

CHAIRMAN TOMPKINS: He has claimed his immunity. He hasn't refused to answer it. He has claimed his immunity. That is as far as we can probe into it.

ATTORNEY GENERAL McBRIDE: I had some specific questions I would like to ask him, and if he claims his immunity, all right. However, I would like to ask him specific questions.

REPRESENTATIVE BELL: On this subject now?

ATTORNEY GENERAL McBRIDE: Sure.

REPRESENTATIVE LOPRESTI: Mr. Chairman, I would like to ask a question on the question of immunity. Does the immunity apply only to the source of information and are we permitted to ask questions regarding the information itself or where it was obtained, whether it was in Harrisburg or some other place, and is the immunity limited specifically to the individual who gave the information? Are we permitted to inquire into other matters?

MR. MILLER: Why didn't you read the whole story where it presents Mr. McBride's position?

SENATOR YOSKO: I will let Mr. McBridge explain his position when he takes the stand.

MR. MILLER: Why didn't you read the whole story?

SENATOR YOSKO: If you want me to, Mr. Miller, I will.

MR. MILLER: Why didn't you read where Mr. McBride's position was explained in the story? Why didn't you say we presented both sides?

SENATOR YOSKO: I will read the whole story into the record and will call Mr. McBride and let him explain for the record what his position is.

MR. MILLER: I called Mr. McBride. I presented his position of it.

ATTORNEY GENERAL McBRIDE: Yesterday?

MR. MILLER: I called you the other day.

ATTORNEY GENERAL McBRIDE: About a week ago.

MR. MILLER: I wanted to confirm the story further.

ATTORNEY GENERAL McBRIDE: You didn't get it confirmed. You got it denied, didn't you?

MR. MILLER: From you.

ATTORNEY GENERAL McBRIDE: Yes.

MR. MILLER: And we so said.

ATTORNEY GENERAL McBRIDE: Yes.

BY ATTORNEY GENERAL McBRIDE:

Q Now, is it a man or woman who told you?

A I am not going to tell you whether it was a man or or woman.

Q Did you talk to the Governor of Pennsylvania as to whether or not he had made such a commitment?

A He is an interested party. Is he going to be allowed to cross-examine me?

Q Why not? Do you object to that? Are you scared?

A I am not scared. You can't try your criminal courtroom tactics on me. I have a right to protect my source of information.

CHAIRMAN TOMPKINS: Mr. Lopresti, what was your question again, please?

REPRESENTATIVE LOPRESTI: My question was whether the privilege to be granted the witness was to be restricted to the source of information or does it go to all matters in connection with the story. If there is to be any examination or cross-examination, we should know the limits within which it must remain.

CHAIRMAN TOMPKINS: My understanding of the immunity of a newspaper man is the protection of his source of information and other matters relating to any articles appearing in the press. If I am wrong in that, I stand subject to correction.

SENATOR YOSKO: May I say this, Mr. Chairman? I think Mr. Miller is one of the best reporters, one of the hardest working reporters in the Capitol newsroom. However, if Mr. Miller wanted to write a story on the appointment or proposed appointment of Mr. Witkin as a judge or in any other capacity, he could have written a separate story on it without bringing in the Darcy case or any other case that is to come before this Board. It could have been a story in itself, without any reference to the activities of this Board or the Pardons Board or any cases that come before it. Since it was connected, there is a reflection upon the witnesses and upon the Board, the Attorney General of Pennsylvania, upon the Governor, and it is misleading to the public. I think the public is entitled to a clarification on it.

Since the Attorney General is a principal, he is here, and I want to get his version of it. I want to know whether he conferred with the Governor on the appointment of Mr. Witkin. I want to know whether he talked to Mr. Witkin about it, about an appointment as judge or in any other capacity. I want to get all the facts so that they can be properly reported to the people.

REPRESENTATIVE BELL: Mr. Chairman, I want it clearly understood that Senator Yosko's views on what a newspaper can write and cannot write are not those of this member of the Committee, meaning myself, because the newspapers of Pennsylvania are going to write what they please, when they please. When we have a Committee such as this endeavoring to tell the newspapers what to write, we have a threat to the free press, and I do not concur in Senator Yosko's remarks as to what any newspaper, whether it is the Inquirer or whether it is the Daily News or any other paper, should write. They are answerable to libel suits if they print falsehoods, but as long as we have a free press, the publishers will write what they want to. I don't think that I want to be interpreted in this hearing as saying they should do otherwise.

SENATOR YOSKO: Mr. Chairman, I don't question the right of a newspaper to write stories; but I believe they should be based upon authentic, factual in formation. When they implicate someone, the persons that are implicated, especially in an investigation such as this, should be given the opportunity to present their version of it to either corroborate what was printed or to deny what was printed, because it does have some bearing on the witnesses that are to appear here and it does have some bearing on the participation of Mr. McBride in these proceedings, and I want to get the question cleared up before we proceed further.

MR. MILLER: Let me ask you a question, Mr. Yosko, if I may. May I ask you a question?

SENATOR YOSKO: If you want to make a statement, you can make a statement.

MR. MILLER: No. I want to ask you a question. You have been asking me questions. I have no counsel to ask questions for me.

CHAIRMAN TOMPKINS: This Committee does not propose to make itself an inquisitor into what newspapers publish nor does it intend to call that particular paper before this Committee every time some statement is made that does not please this Committee or some member of it and try and censor what they have done or to try to dictate to them what they can or cannot publish.

SENATOR YOSKO: Mr. Chairman, I did not call Mr. Miller this morning. Mr. Chairman, I called Mr. McBride, and it was at your suggestion that we—

CHAIRMAN TOMPKINS: You are still trying to make—

SENATOR YOSKO: It was at your suggestion that you give Mr. Miller the same opportunity to testify here as we were going to give Attorney General McBride. Mr. Miller is sitting in the chair that he is sitting in right now because of a suggestion made by you, not by me.

CHAIRMAN TOMPKINS: Still, your original inquiry was with reference to publication of a newspaper article and remarks, and what I said still stands.

SENATOR YOSKO: They can stand, but I just want to know whether Mr. McBride, who is a participant in these proceedings will be able to testify as to whether or not the facts indicated in that story are true insorfar as he is concerned.

Now, if Mr. McBride was not a participant in these proceedings, this question would not have been raised today. However, he is a participant.

REPRESENTATIVE BELL: Mr. Chairman, to set the record straight, I don't think that it is proper that, when a newspaperman raises his immunity as to the sources of his information, that reflection should then be cast upon him in any manner to discredit him, because where any newspaper reporter in this State Capitol or elsewhere who would feel free to reveal the sources of his information, that newspaper man would not be worthy of his salt. I want to state that I respect a newspaper reporter who will stand up and tell this Committee or any other committee or any judge that he respects the sources of his information and that he will stand on his immunity.

SENATOR YOSKO: There is no one here, as I said before, who is trying to force Mr. Miller to divulge his source of information, and I repeat what I said a moment ago. Mr. Miller is sitting in the chair that he is sitting in not at my suggestion but at the suggestion of the Chairman of this Committee.

CHAIRMAN TOMPKINS: The entire inquiry, however, with reference to a newspaper article and an inquisition into which I don't think this Committee has a right to inquire into was brought up by Senator Yosko. Mr. Miller has declared his immunity and he is excused at this point.

(witness excused)

THOMAS D. McBRIDE, Attorney General, State of Pennsylvania, having been duly sworn, was examined and testified as follows:

REPRESENTATIVE BELL: Mr. Chairman, I would like to make a statement that Mr. McBride is being called by Senator Yosko, and if Mr. McBride wishes to testify voluntarily, it is all right with us.

ATTORNEY GENERAL McBRIDE: I am delighted to testify voluntarily and freely.

BY SENATOR YOSKO:

Q Mr. McBride, did you read the story in this morning's Philadelphia Inquirer?

A I did.

Q Did you at any time discuss with Governor Leader the appointment of Morton Witkin as a judge or in any other capacity with state government or any other government?

A This story has to do with my having discussed with the Governor the appointment of Mr. Witkin as a Philadelphia judge if the Legislature creates Common Pleas Court No. 8. I had no discussion with the Governor or with anybody elso about that subject.

Q I know you just made a broad statement, but did you discuss the subject with Mr. Green, the Chairman of the Democratic City Committee?

A Never.

Q Did you discuss the situation with Mr. Hamilton, the Chairman of the Republican City Committee of Philadelphia?

A Never.

Q Did you discuss this situation with any officer of the Philadelphia Bar Association?

A Never.

Q Did you discuss the subject with Mr. Witkin?

A Never.

Q Is there anything that you would like to say about it?

A Yes. This article was written by Mr. Miller with a quite obvious attempt to discredit Mr. Witkin as a witness when and if he appears before this Committee. That is why I think that it is an important matter to be heard by this Committee. If Mr. Witkin were not going to be a witness before this Committee, it would be of little consequence if Mr. Miller told his hateful, malicious lies about me, but since Mr. Witkin is going to appear as a witness before this Committee and since it appears also that Mr. Miller is afraid he will tell the truth, he is seeking to discredit in advance by indicating that there is some unholy agreement in which Mr. Witkin is part and in which I also am a part.

There is not the slightest justification in fact or even in rumor for Mr. Miller's malicious, lying, hateful article in today's Inquirer.

It says, "Asked for comment on the reported judicial appointment for Witkin, McBride said today he had a 'high regard for Witkin as a lawyer,' but had given no consideration to recommending the former Philadelphia ward leader for the bench if a No. 8 court was created."

The only time Mr. Miller ever told me of any such rumor was approximately a week ago, when I told him that there was not the slightest foundation for it; and in the ensuing conversation I did say that I thought that Mr. Witkin was a good lawyer. But I assured him that there was nothing to it, and he said, "that is the rumor." He did not say to me that any person had told him. He did not say that any person in whom he had confidence had made any such statement.

The whole thing has been created out of Mr. Miller's mind and solely with an improper and malicious purpose of influencing the course of the proceedings before this Committee. Of that I am convinced as much as I am convinced of anything. It is an entirely improper attempt to influence this Committee's judgment and the public acceptance of what is going to happen before this Committee.

BY REPRESENTATIVE BELL:

Q Mr. Attorney General, was Mr. Miller's inquiry of a week ago the first indicatiion that you had that there was even rumors of Mr. Witkin for judge?

A The first and only. No other human being has ever suggested to me that it was even rumored. He called me on the telephone and said, "There is a rumor around that you are plugging for Mr. Witkin for No. 8 Court." I said, "There is nothing to it." As a matter of fact, I don't even know, Mr. Bell, as of this moment, whether there is a bill pending in the Legislature to create a No. 8 court. I had no conferences with anybody. I have made no recommendations, commitments. I have not even discussed the matter with a living human being on this earth.

Q. Subsequent to Mr. Miller's inquiry, the reason my attention was taken away, Representative McCormick in the back of the room says there is such a bill in the Legislature.

A. I accept that statement. I didn't know it.

Q. Sir, after the conversation did you make any inquiry on Capitol Hill concerning whether there was discussions of Mr. Witkins for this appointment?

A. No. Frankly, I dismissed it as a malicious question of the kind that Mr. Miller has put to me since I came up on Capitol Hill.

MR. BELL: Thank you, sir.

BY CHAIRMAN TOMPKINS:

Q. The views you have expressed here this morning are entirely your own?

A. Well, I don't know whose else they would be. I hope that they are shared publicly, but they are my own.

CHAIRMAN TOMPKINS: Very well, thank you.

REPRESENTATIVE LOPRESTI: I don't want to get into any long discussion, but I would like to read into the record some remarks which appear in a news item under the name of John Cummings of the same Philadelphia Inquirer, appearing on April 2, 1957.

CHAIRMAN TOMPKINS: Mr. Lopresti, what are we to gain by this? We put those same remarks in the record yesterday in the House of Representatives. I thought the matter was fully disposed of.

REPRESENTATIVE LOPRESTI: It is now a matter before this Committee, and I think it should appear. It is just one short statement. That statement is: "Unless the signs of the times are amiss, an effort will be made by Attorney General Tom McBride and minority Democratic members of the investigating committee to shout down any serious effort to get the facts in the Darcy case."

I want to state at this time publicly that this is one member of the minority committee who will not shout down any witness or any attempt to get all of the facts in the Darcy case. The only time I will shout is when any of the facts are trying to be concealed, if such a case should present itself.

SENATOR YOSKO: May I say that you express my sentiment as well.

CHAIRMAN TOMPKINS: Let us proceed with the hearings.

SENATOR YOSKO: Mr. Chairman, I see my good friend John Cummings back there. This is what he said about me: "The loud-mouthed diversionary weapon employed by Senator Yosko and others is intended to smother the Darcy case under a blanket sound . . ." I just want to say to you that I talk loud once in a while because your colleague, Joe Miller, and some of the other reporters say, "You don't talk loud enough."

Mr. CUMMINGS: Did you see the April 1st phase of that story?

SENATOR YOSKO: I just saw this for the first time this morning.

CHAIRMAN TOMPKINS: Well, it is now 11:00 o'clock and we are 45 minutes late in starting this hearing.

Diversionary tactics are certainly not helping the progress of this hearing.

. . . ED FRANK HEAN, previously sworn, recalled . . .

DIRECT EXAMINATION

BY MR. KOHN:

Q. Mr. Hean, will you explain to the Committee what led to Miss Blatz's change of her vote on—

CHAIRMAN TOMPKINS: Which case are we on, Mr. Kohn?

MR. KOHN: Still on the DiVito case.

CHAIRMAN TOMPKINS: All right.

BY MR. KOHN:

Q. You will recall that you testified that Miss Blatz changed her vote. I think it was about 6 days after that circular had passed. Do you have anything in your recordse to show why or how or when?

A. No. I only have a hazy recollection, which I wouldn't like to express, because I may be in error.

Q. Did she call you and tell you to make that change on your records?

A. No. I went down to her.

Q. What made you go down to find out whether she had changed her—

A. Because I was informed that she was changing her opinion.

Q. Who informed you?

A. The Lieutenant Governor.

Q. Then, on January Sessions of 1957 this DiVito case again got a special listing, did it not, 55-A?

A. Yes.

Q. And pursuant to your duties as secretary to the Pardons Board, you distributed the sheets containing the information for their files, did you not? I show you a sheet which is the usual hearing sheet, which each member of the Board and yourself put in your folders. Is that correct?

A. That's correct.

Q. Under "comments," does this not appear: "The applicant changed request from pardon to maximum on 12/11/56"?

A. No. I believe—but I believe he informed me. It does not appear on our records.

Q. I ask you does it appear here (indicating)?

A. Yes.

Q. When did he inform you prior to 12/11/56 that he was changing his request for a pardon to a commutation to the maximum?

A. I cannot give you a precise recollection.

Q. Well, it must have been before then?

A. It was before then, naturally.

Q. The sentence reads further, "The Board had voted 3-1, but had reconsidered a change in question to maximum." When was that?

A. That, I believe, was at the December—

Q. Will you refer to it, please, in your minutes? What brought about that particular vote? I mean what was before the Board at that time?

A. Why, the request for the rehearing and for the January—

Q. That must have been before 12/11?

A. Yes.

Q. Will you find that for me, please?

A. You will not find it in here.

Q. Where will I find it?

A. You will find it in the minutes for the December meeting, which have not been made available to me as yet, or to the members of the Board.

Q. What date in December would that be?

A. I would have to take a long guess, and I don't like to do that.

Q. Just take a short guess.

A. It was before then.

Q. Before December 11?

A. It was before the meeting.

Q. It was before December 11; it had to be because you considered it; is that right?

A. Yes, before December 11.

Q. Isn't it a matter of fact that you didn't get a request for a change in the factual situation, or a request from pardon to commutation until December 27, or 16 days after that?

A. I know that was some—at the meeting in October, where they were requesting a pardon, the applicant was requesting a pardon, the hesitation of the Board so indicated to the applicant's attorney that there should be a change, that the Board was certainly not going to go along with a pardon.

Q. Can you find that for me?

A. No, I can't.

Q. Wasn't testimony taken?

A. Yes, by a stenographer, which is a stenographer out of the House of Representatives.

Q. If what you say is true, it should be in there?

A. Yes, That is the impression I had.

Q. But you are not able to find it?

A. I—

Q. You are not answering my question.

A. I can't very well.

Q. I ask you why you stated in there that there was a change asked for by the attorney, Mr. Lord as of 12/11/56 from a pardon to a maximum, whereas the letter from Lord says that you didn't receive such a request until December 27, 1956, or 16 days after your records show.

A. That is correct.

Q. What was the special consideration in this case again that it had to have special action? Did Mr. Lord call you again?

A. He may have. We have had several telephone conversations.

Q. So this is twice in this case that you have done the same thing?

A. I have been in conversations.

Q. There is nothing in the records or your minutes or any place in regard to how this came about?

A. No, I don't believe there is. No. Mr. Kohn.

MR. KOHN: That is all.

CROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q. Mr. Hean, were there two votes in favor of rehearing, without that of Miss Blatz?

A. I so understand. I so recognize that there was. That is my recollection.

Q. Then, her changing her mind and voting for a rehearing did not affect the fact that a rehearing would have been granted anyway?

A. That is correct.

Mr. KOHN: It wasn't a rehearing, Mr. McBride. We are talking about the orginal hearing.

THE WITNESS: The only hearing was a special listing.

ATTORNEY GENERAL McBRIDE: Special listing?

MR. KOHN: Yes.

BY ATTORNEY GENERAL McBRIDE:

Q. Well, the rule is the same on a special listing or a rehearing, isn't it?

A. That's correct.

Q. That is a special hearing or rehearing will be granted, whichever is applicable, upon the vote of two out of the four?

A. That is correct.

Q. So her vote was not controlling in that?

A. Not controlling, as I understand; but she desired to have it changed.

Q. Now, at the first hearing, it is correct to say, is it not, that doubt was expressed of the jurisdiction of the Board of Pardons to act upon a commutation on a case where the sentence was less than two years?

A. That is correct.

Q. And at that hearing, the first hearing, because of that expressed doubt on the part of the Board of Pardons, Mr. Lord requested a pardon?

A. That's right.

Q. And the Board acted upon the assumption that a pardon was within its discretion but that a commutation was not within its discretion, since a parole could have been granted by the lower court?

A. That is correct.

Q. That, however, is not the law.

A. I understand it not so to be.

ATTORNEY GENERAL McBRIDE: That is all.

REDIRECT EXAMINATION

BY MR. KOHN:

Q. And Mr. Cohen so advised you, or didn't that question come up?

A. Well, Mr. Cohen didn't advise me—you mean did Mr. Cohen advise me at that time?

Q. Yes. You are testifying to it. Where did you get the information?

A. It was discussed as to the jurisdiction of the Pardons Board in handling sentences, flat sentences, less than two years.

Q. What did Mr. Cohen say about it?

ATTORNEY GENERAL McBRIDE: Here is the testimony.

MR. KOHN: I can get the testimony. Just let him answer the questions.

ATTORNEY GENERAL McBRIDE: You don't want him to answer from his recollection if there is testimony on the point, do you?

MR. KOHN: You asked him questions. You didn't put the testimony in.

ATTORNEY GENERAL McBRIDE: I:f you don't want to put the testimony in, all right.

A. I am now going from recollection, and Mr. Cohen is a very competent lawyer, as you know.

Q. I don't doubt that.

A. And he was giving up his thoughts on the jurisdiction of the Board in cases of that nature.

Q. And isn't it unusual that you should have two special listings of hearings without anything in the file at the time that they were considered by the Board?

A. I would agree with you, it was unusual, yet, but not irregular. The Board is independent constitutionally—

Q. The Board can do as it well pleases, can't it?

A. That's right.

Q. It can set its own rules, can't it? It does not matter whether it is a murder case or lottery case or gambling or what?

A. They can set it because it is an independent constitutional body.

Q. And the fact that it was in Delaware County had no significance in this matter?

A. None that I know of.

Q. And the fact is that Mr. Lord called you and you didn't hesitate to call the Board to have it act on the matter?

A. When any responsible attorney called me, I gave him due credit.

Q. You give me the name of one responsible attorney for whom you have complied with on such a request in the last six months?

A. I cannot give it to you.

Q. Can you do it for the last year?

A. I cannot give it to you. You are asking me questions on the basis for which I would have to go over the books.

Q. I am asking you on the basis that you would do the same thing.

A. I would do the same thing for any responsible attorney.

Q. In the last hearing I asked you to dig up such a case like that for me. Have you been able to do that for me?

A. No, I have not.

MR. KOHN: That is all.

RECROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q. Now, refer not to your personal recollection, but straighten us all out on whether or not a statement was Thursday, October 18, 1956, on the question of jurisdiction of commutation?

REPRESENTATIVE BELL: Mr. McBride, for the purpose of the record, will you identify the document you are pointing to?

ATTORNEY GENERAL McBRIDE: I identify the document as the Board of Pardons, Commonwealth of Pennsylvania, transcription. It doesn't say transcript, but that is what it is. It covers pages from 1 to 230 under the imprint of E. E. Moyer, P. O. Box 1126, Harrisburg, Pennsylvania, and it shows that it is the stenographic report of the October Sessions, Board of Pardons, taken in Supreme Court Room, main Capitol Building, Thursday, October 18, 1956, 9:00 a. m., showing who was present, and then on page 1 to 9, under the DiVito case, I will ask him to read from there.

BY ATTORNEY GENERAL McBRIDE:

Q. Will you read from line 4 down to line 18?

A. The Chairman asked this question. Mr. Lord was standing before the Board at the podium—

BY CHAIRMAN TOMPKINS:

Q. This question was directed to Mr. Lord?

A. Was directed to Mr. Lord. "Chairman Furman: this man, referring to DiVita, this man is still in prison; isn't that true?

"Mr. Lord: Yes, sir. The applicant is 43 years of age.

Attorney General Cohen: The maximum to which he was sentenced was 23 months. Isn't jurisdiction in the local courts?"

Then Mr. Lord replies: "I believe the Board of Pardons has jurisdiction in any case where there is a flat sentence."

Attorney General Cohen replies: "We do not have any jurisdiction here. We have not assumed jurisdiction in the event we have it, in view of the fact that jurisdiction could be exercised by the Court of Quarter Sessions."

Then Mr. Lord: "Might I address myself, then, to the question of a pardon. If the applicant in this case is 43 years of age."

ATTORNEY GENERAL McBRIDE: Now, the rest of the argument is on the merits, not concerning that jurisdictional question, and unless the Board wishes that it be read, I see no point in reading it.

CHAIRMAN TOMPKINS: No. Your query is with respect to the question of jurisdiction?

ATTORNEY GENERAL McBRIDE: Yes.

MR. KOHN: And if you didn't have jurisdiction and Mr. McBride says you do; is that it?

ATTORNEY GENERAL McBRIDE: What do you say?

MR. KOHN: I say there is no question about it.

ATTORNEY GENERAL McBRIDE: Therefore, the first hearing went off on a wrong basis. If ever a man was entitled to a rehearing, it having been decided on that basis, it was this man.

MR. KOHN: I say they were wrong on his interpretation to the Pardons Board. If he checked the law, he would have known better.

REPRESENTATIVE LOPRESTI: I think, in fairness to Mr. Cohen, that wasn't testimony given here. He said if they did have jurisdiction, he didn't assume it.

MR. KOHN: He said he didn't think they had, that's all.

(witness excused)

. . . ATTORNEY GENERAL THOMAS D. McBRIDE, previously sworn, recalled:

DIRECT EXAMINATION

BY MR. KOHN:

Q. Mr. McBride, you were a member of the Board of Pardons in this particular case, were you not?

A. I was a member of the Board of Pardons at the time the DiVito case was argued in January of 1957.

Q. That is the second time; is that right?

A. Yes.

Q. And you voted for a commutation in that case?

A. I did.

Q. And before you voted for the commutation you read carefully, did you not, the reasons given for the commutation?

A. I assume that I did. I have no recollection of having read this particular one rather than others, but in accordance with the usual practice, they come to my office as they do to the other offices and I read them.

Q. During the discussions was there any particular significance attached to the fact that this man was sponsored, who his sponsor was, or that he was going to go back as secretary-treasurer of the Longshoremen's Union (handing paper to witness)?

A. I never heard directly or indirectly any discussion by anybody concerning who his sponsor was. I am not concerned about that point in any hearing before the Board of Pardons because that is a question which the Parole Board takes up on the issue of whether a parole shall be granted. The Board of Pardons hears no public discussion as to a parole plan. It hears nothing as to a sponsorship except occasionally where a person appearing before the Board wishes to state that he is the sponsor or wishes to state who his sponsor will be. There was no discussion at any time in my presence as to who it was that was sponsoring this man.

Q. You paid attention, of course, to the facts set forth by the attorney for the applicant before you as to what facts he set forth in his argument, did you not?

A. Yes.

Q. And you give some credence to that argument?

A. Yes. I consider it and if it seems to have merit, I stack it against the countervailing arguments of the District Attorney, the reports from the prisons, all other

relevant data which we have as members of the Pardons Board, which is usually ten times as much as either party has before him in presenting the case.

Q. Are you still Chancellor of the Philadelphia Bar?

A. Yes.

Q. How long have you been Chancellor of the Philadelphia Bar?

A. The end of this year will be my second term.

Q. And you are also the legal adviser to the Board of Pardons?

A. Yes.

Q. And in such capacity it is your duty to advise them in regard to the arguments made, the legal points in there. in the arguments?

A. Whenever a legal point arises, I do undertake to advise them as to my opinion of it.

Q. Do you have any bias of any kind or any prejudice with regard to the judges or any of the citizens of Delaware County?

A. I certainly have no bias or prejudice as to the citizens of Delaware County. If you were to ask me one year ago whether I had any feeling against the judges of Delaware County, I would have answered just as frankly no. But I must say to you that my opinion of Judge Bretherick, after the statements he made here before this Committee, statements I have heard him make in Delaware County, have resulted in my having a low opinion of him as a minister of justice.

Q. And do you think it is proper to use the argument and to have the Board listen to it, and do you think it lends to the dignity of the Board of Pardons to have attorneys appear before the Board of Pardons and charge the judges with being guilty of malfeasance in office? Do you think that is a proper argument to be listened to by the Board of Pardons without comments there by any member of the Board of Pardons or by the calling of Judge Bretherick or any other judge to answer the accusation?

A. I think any attorney that files an application before the Board of Pardons and believes in the real facts in that a judge has not done his duty and who fails to do that and advance that as an argument before the Board of Pardons is a coward and is not doing his duty to his client.

Q. Did you look into the facts of the DiVito case?

A. Yes.

Q. Now, you listened to the argument by Mr. Lord, which was partly as follows "During the time intervening between the trial and his change to the plea of guilty on the third Bill of Indictment, he led the United Labor drive for the registration of voters. Possibly that had something to do with the verdict. That might have been a third offense."

Was there anything in the trial of the case or the facts of the case to indicate that there was any foundation in fact to Mr. Lord's argument in advancing that to the Board for consideration?

A. I know of nothing in the facts of the trial itself to support that, but Mr. Lord stated it to be a fact, and it was not contradicted, as I recall it, by the Assistant District Attorney who appeared.

Q. It so happened that the Assistant District Attorney didn't appear.

A. Wasn't there any District Attorney there?

Q. I don't think so.

A. Well, I recall no contradiction.

Q. Was Judge Bretherick called to find out whether there was any foundation in fact for such a statement?

A. I didn't call him. I think it would be highly unusual if the Board of Pardons would undertake to call him. He has stated his views as to the merits of the application.

Q. You think, then, it is perfectly proper to use that type of argument before the Board of Pardons and have it taken on the word of an attorney who is suing for commutation for an applicant?

A. Yes.

Q. Did you ever do that, Mr. McBride?

A. I do not recall that I was ever in a position to say of a judge that he held it against a man that he was active in organized labor, but had I been in that position, I hope I would have had the courage and the decency to state it as forthrightly as Mr. Lord did.

Q Would you have presented facts to prove it, Mr. McBride.

A Well, the only method of proof that I know of in proving that a man had participated in certain labor activities—

Q I am not talking about that. I am talking about holding it against him because he had participated on either side. Do you think it is a proper argument to be argued before the Board?

In fact, you argued it in the Fuglio case. You stated: "Perhaps through it all, however, his greatest sin was in implicating important political figures in the Barony of Delaware County, both of whom, despite reluctance on the part of those in authority to proceed, Patrolman Macafy, with the approval of the State Police, swore out warrants and procured convictions, and these political figures went to jail."

Did you make that statement?

A Right. I made that in the presence of a State Policeman who stood up before the Board of Pardons and, like the honest man he was, supported that statement to the hilt.

Q Will you show me where he supported that statement or where he testified to anything of that kind?

A Have you got his testimony here?

Q It is all in there.

A Here is what the policeman said, page 158: "Now, as far as the political business, he was fingering the different other people that bought the stolen items and he said, 'Why don't you pick up the politicians?' Through Judge Erwin of Delaware County Court, we got a writ and got him out of jail, and then Earl Alvin and myself and Al Fuglio went to Chester, Delaware County, and went to the taproom of Joe Doberts, and Joe Doberts was fingered by Fuglio, and he admitted selling him stuff. That was around midnight, in back of the place, and he knew it was stolen and also his partner, Davis. I came back to court along with my commanding officer and I found a man by the name of Fitzgerald and we got warrants and arrested these men, and through Fuglio we convicted them in the Delaware County courts. I think they got three months each in jail, that is, Joe Doberts and the other man, Davis," both of whom, in fact, were political figures. I believe it is not Joe Doberts. I believe it is Joe Doblitz.

Q The first time you appeared for Fuglio, he got twenty to forty, did he not?

A I don't recall.

Q So that you do have some prejudice so far as you are concerned as far as Judge Bretherick or any cases coming from that county are concerned?

A No. I would not say that I have prejudice, but I have this personal experience with Judge Bretherick in connection with a case on which I went out to Delaware County to try. It is not prejudice. It is an accurate statement of facts. Mr. Hughes testified that there was a riot case tried in Delaware County arising out of what were known as the Westinghouse strikes. I went out to try a riot case in Delaware County, and I moved for a continuance of before Judge Biggins, and he called the other judges in for a conference as to whether or not that continuance should be granted. Now, it was quite obvious that these men had been charged with riot in connection with the strike at Lester. They were all members of the Union. When Judge Brethercik appeared and I made my motion for continuance, the other judges were present, and he had his black gown on. It was in chambers. Other counsel were present, including the District Attorney. Then he addressed himself in most scathing terms, denouncing the defendants, and ended up with violent language, saying that he would not give those so-and-so's anything, and showing such bitter prejudice himself against these defendants who had not yet been tried, that when Mr. Lord later appeared before the Board of Pardons and told me, told the Board publicly that Judge Bretherick was prejudiced against anybody connected with the labor movement, I found myself perfertcly willing to believe him.

Q Without any proof thereof?

A With the statement of Mr. Lord to the effect that this man had joined a picket line—

Q Are you talking about DiVito now?

A DiVito. DiVito had joined some organized labor group—

Q Wait a minute. You said a picket line.

A And picketed.

Q Will you show me where that is in the testimony?

A I don't know whether it is in there.

Q You mean Mr. Lord talked to you alone?

A No. Mr. Lord—oh, Mr. Lord has talked to me since in preparation for this hearing. Mr. Lord has some photographs—

Q Mr. Lord said some other statement which does not appear in the record?

A Outside of the photograph which I would be delighted to show you—

Q I am not interested in that. I want to know if you knew there was a picket line involved and whether you considered that when sitting on this case.

A I did not consider that in this case because I had no private information.

Q It doesn't matter what somebody else says to you; as long as it involves Judge Bretherick and involves labor, you are apt to believe it?

A That is an unfair statement which you have no right to make. That is untrue.

Q Did you check to see whether it is true?

A Did I check on what?

Q On what Mr. Lord said to you.

A Mr. Lord said to the Board that this man had been involved in labor controversies.

Q This is after the hearing that you are talking about?

A No. I think Mr. Lord said this at one of the hearings.

Q Will you please show it to me? That is what I am talking about. What did you consider at the time that you—

A Where are the two hearings?

Q You have them both. I gave you the one this morning. I think it is over there (indicating).

A (referring to transcripts)

Q You were not sitting on that first hearing?

A No. Mr. Lord said on page 130 of the Otcober hearing, "At that time, immediately prior to his arrest, he had taken active part in the United Labor Committee, registering voters in the City of Chester and throughout Delaware County. Things were said to him about his activities in organized labor. Since his arrested he has been visited in the Delaware County Prison by special investigators appointed by the Delaware County Sheriff's office, who have instructed him they would do something for him if he would put the finger on certain people in the City of Chester who were active politically in the party. Mr. DiVito has refused to do that."

Q Now, you have read everything except what I asked you, Mr. McBride. Where do you get the picket line business that you are trying to tell us about?

A I told you that I did not recall that Mr. Lord mentioned a picket line in connection with the application, but at the hearing before us, Mr. Lord said, speaking of the factors that moved Judge Bretherick to impose such a special penalty, he said, "Yes, sir, that is right. There are no factors so far as the record will bear out indicating why so severe a penalty was imposed in this particular case. I might point up to the Board some of the factors apparent to me. One is that Mr. DiVito was a political leader of an organization not quite in keeping with Judge Bretherick's thoughts of what was proper in the field of politics. He was a leader of a United Labor movement in Delaware County, and he went to trial on the first two Bills, and after the jury came back and motion for new trial was pending, he entered a plea of guilty to a third Bill of Indictment. In between the time of trial and the change of plea, he led the United Labor Drive for registration of voters. Possibly that had something to do with the severity. That might have been a third offense."

Q Just read on.

A "He was subject to daily visits by special investigators of Delaware County Court, asking him to name certain people in the City of Chester as being bankers. Mr. DiVito stated to me he never had a banker."

Q Next paragraph.

A "At the time of his arrest, the applicant was employed as the secretary-treasurer of the International Longshoremen's Association. This, too, might have been a factor that motivated the judge to impose so severe a sentence in the case. At that time he was interested in the port development of the City of Chester."

Q What investigation did the Board of Pardons make, if any, to find out whether any of those allegations were true so that you could rely on them before you granted a commutation?

A The Board of Pardons, as far as I know made no further investigation.

Q They took that as a matter of truth?

A We accepted, or at least speaking for myself, I accepted as a matter of truth that he was employed as the secretary-treasurer of the International Longshoremen's Association. I accepted as truth that he had been engaged in the United Labor Movement in Delaware County, and I accepted as a matter of inference and, hence of truth, that if those two things were true, Judge Bretherick would be against him.

Q And you said that as did the other members of the Board, too, did they not?

A I cannot speak for them. I can speak for myself.

Q It wasn't even discussed?

A It may have been discussed.

Q That you allow for the Board of Pardons to become a factor in the commutation of sentence?

A The fact that a man received an unfair sentence?

Q Yes, that the judge, without any foundation or fact or anything to rely on except the statement of an attorney and your own personal knowledge, the Board of Pardons relies upon it as a fact on which to dispense accurate justice on behalf of the Commonwealth of Pennsylvania.

A The Board of Pardons considered these facts. The Indictments were not only for the completed offense of lottery, but for a conspiracy to commit that offense.

The offense of lottery and the agreement which preceded it are in my thirty years' of experience rarely both punished. Usually judges feel that the agreement to commit a crime, merging into the crime itself, is not punished separately. Here the sentence, the largest sentence was upon the mere agreement to commit a lottery, and the smaller of the two sentences was upon the lottery itself. They were made consecutive, whereas normally they would have been made to run concurrently. I felt that, in the vast majority of cases, a man situated as was DiVito would not have been punished so excessively had there not been other considerations.

Q Which were not of record?

A Which were not of record. It became clear to me that the type of considerations that Mr. Lord mentioned might very well have been the type of considerations that moved Judge Bretherick in imposing that sentence. But with or without considerations I felt that on the record the sentence was excessive, and having that feeling, I feel that that is the sacred function of the Board of Pardons, that is, to cut down such excessive sentences.

Q Have you and the Attorney General checked the sentences in Dauphin County in similar cases?

A No.

Q Is there anything unusual with the law charging the man who has twice violated, the man with the two charges, with the two charges they charged him on? Did you read the case about D'Agostine?

A I am not complaining about the legality of—

Q Will you answer the question and stick to the answer?

A You asked me whether there was anythiny wrong about the sentence in effect. That is what you asked me; and I answered you by saying I am making no complaint about the legality of the sentence I say it is an unusual and an unfair sentence on a minor misdemeanor such as lottery, and on a man who did not have a big lottery, to superadd a long sentence for conspiracy arising out of the same act of lottery.

Q You think, then, it is wrong for Dauphin County, who does the same thing, to apply the law as they see fit?

A I think, if Dauphin County does generally what Judge Bretherick did here, it would not be in accord with the almost universal practice all over the Commonwealth of Pennsylvania.

Q Isn't it a fact that, in order to get these big gamblers, because a lottery only carries with it six to twelve, they include in the Indictment conspiracy, which carries a much longer sentence, in order to secure major gamblers?

A That may be. There was no evidence in this case that DiVito was a big gambler, and there was subsequent evidence that his wife was on relief that she was the recipient of relief, that the man, according to this record, is still in jail because he had not been able to pay his fine—

Q You didn't know that at the time of the hearing, did you?

A No, of course not

Q Are you trying to justify it by that?

A I am not trying to—I am saying that the record before this Board, indicating that the assumption that he was a big-time gambler, cannot be correct.

Q Did you read the testimony that he had 148 bets which involved some $500 in one day?

A I saw no such testimony.

Q I thought you said you looked at the testimony.

A I didn't say I did at all.

Q Did you look at it?

A I looked at the official report.

Q Did you look at the parole agent's report which stated that also?

A I read everything in the case. Everything in that file I read.

Q A man that makes $500 in one day in gambling is just small potatoes?

A No. I think any man that makes $500 a day in gambling is not small potatoes.

Q You say that is not the fact in this case?

A No, I do not.

Q You say you looked at the—

A I say that if a man takes 148 plays, representing $500 in plays, that he does not necessarily win them all.

Q You only figure it when you win? You say in this case it wasn't justified even though he was caught twice within three months?

A I say that this was an unusual sentence.

Q You mean it is all right for a man to get caught twice, even though he is affiliated with—

A I don't know why you are pressing these non sequiturs upon me.

Q It makes no difference as far as the Pardons Board is concerned if a man is caught twice in three months; he should be given the minimum sentence?

A The sentence is entirely up to the judge.

Q And it is up to the Pardons Board to correct it if they don't feel it is proper?

A It is up to the Pardons Board, obviously, in unjust and excessive sentences, to grant mercy where the sentence was justified, but where subsequent events turn out to justify the granting of it.

Q Do you believe, then, that in spite of the fact that, in considering this case, he had a terrifically long record and he was not involved in any political activity, that was also wrong because in Delaware County they should not sentence him as they please?

A You have not stated my belief.

Q You think that the Pardons Board should act as a balance wheel between the discrepancy in sentencing in the different counties with regard to the problems they have there with regard to particular crimes?

A No; because that would be asking too much of it. Because I say this, one of the great causes of dissatisfaction in every penitentiary in Pennsylvania is the disparity of sentences between a man who is coming from one county and doing ten to twenty, or forty to sixty for an offense for which a similar person gets three to six in another county. Anyone experienced with penal affairs knows that that is one of the great problems that the wardens face. I do not say that the Board of Pardons can go about like a little white angel correcting all of that, but where a sentence does seem oppressive, it is the duty of someone to do something about it. Every experienced warden of Pennsylvania will tell you that that is one of the serious considerations they have in running their jails.

Q And in these particular cases in Delaware County, and in the Caserta case, although he had a long record, he only served one year, and although DiVito was caught twice he only served one year, you think that you should equalize them that way?

A Mr. Kohn, it seems to me that all you are asking me to do is to express an opinion on the Pardons Board's philosophy or on my own.

Q You are in a position to do that?

A Surely. Don't you want to find out if there was anything wrong or any improper influence exercised over me? Why don't you ask me whether I did anything wrong? Why don't you ask me whether or not any member of the Board of Pardons did anything wrong?

Q I want to ask you on what basis you gave the consideration to the pardon on the request of Mr. Lord; and you have answered that; and I have no further questions.

A All right.

BY REPRESENTATIVE LOPRESTI:

Q Since Mr. McBride has suggested some possible questions that might be asked, suppose we do ask.

Mr. McBride, did you do anything illegal in connection with the pardon, or Pardon Board activities, or were you approached by any person with improper suggestions? Were you giving political consideration to your decisions as a member of the Board, or do you know of any particular pressure being applied to any member of the Board, or do you know any legal considerations made by any members of the Board in connection with the Pardon Board cases since you have been on the Board?

A To each and every one of those questions I make the most emphatic no that I could possibly and sincerely make. I have never known of a single act of impropriety or dishonorable conduct on the part of any member of the Board of Pardons since I have sat upon it. I am proud and delighted to be associated with them.

BY MR. KOHN:

Q Was Judge Bretherick in the Fuglio case?

A I don't recall.

Q McDade? William Toll?

A (no response)

BY CHAIRMAN TOMPKINS:

Q General, on the DiVito case, did you read the application over entirely?

A Did I read the application, Mr. Chairman? Is that it?

Q In its entirety, yes.

A I believe that I read the application in its entirety as to the first time the matter came to my attention because when it did come to my attention it was on the question of whether or not there should be a rehearing.

It then came to my attention that at the first hearing some doubt had been expressed either as to jurisdiction to consider these flat sentences or the question of policy as to whether or not they should be reconsidered; and I think I examined it then.

Q As far as you recollect, you read the application fully?

A To my best recollection, yes.

Q To the best of your recollection, did you read the confidential report of the Parole Agent?

A At the time of the public hearing before the Board of Pardons, yes.

BY MR. KOHN:

Q On all these files, you get a complete file just as the Secretary of the Board of Pardons has, do you not?

A Yes.

Q Everything that is in your file is in their file? You get the letters and copies and answers, do you not?

A Yes, we get—with this one exception, that the Secretary produces the file now, that may not have been the way the file was at the time of the hearing.

Q What do you mean?

A At the time of the hearing any letters that are sent in in advance and any reports from the Parole Board and other agencies are made up separately for each member of the Board. The Attorney General has the original, and it is the direct copy. Now, on occasions, at hearings when the attorneys and applicants stand before the Board, the secretary hands to the Board either a dozen or two dozen letters which are incorporated into the folder, and we separately do not have copies of that.

Q But you have everything which comes in up until the time of the hearing?

A Up to the hearing I would say that each member has a copy of what every other member has.

BY CHAIRMAN TOMPKINS:

Q General, I would like you to take the application and refer to Paragraph 19-A of the application. Read what Paragraph 19-A says.

A "Name and address of sponsor, if granted, commutation, James J. Connor, Delaware County Commissioner."

Q I show you confidential report dated October 2 1956, which is marked receipted as of October 5, 1956, which I take it was in the files at the time the case came before the Board for hearings, and I ask you to read the next-to-the-last paragraph on the bottom of page 4.

A This one that I read was the application that was before the Board in October.

Q And the same one that was before the Board in January?

A There was no new one, was there?

Q No, there was no new one, General.

A Right. Now, Mr. Chairman, you want me to read—

Q The next-to-the-last paragraph.

A "On 10/2/56 agent personally interviewed Mr. James J. Connor, Delaware County Commissioner, at his office in the Media Courthouse, Media, Pennsylvania. Mr. Connor stated that he has known of applicant for several years and has known him personally for the past year and a half. He is aware that he had an excellent reputation in the community prior to his present arrest. He was a good family man and believes that favorable consideration should be given to applicant."

Q That is the same Connor that is referred to in the application?

A I can only assume so. I do not know Mr. Connor I would assume that the name, James J. Connor, Delaware County Commissioner, is the one who was interviewed by the parole agent because that is the person he would normally interview.

This application containing this man Connor's name on it was in that shape when the Board declined to act on it in October.

Q We appreciate that, General. I am only trying to find out whether all this information was before the Board not only at its original hearing but also at the time that you sat as a member of the Board, and the question of a sponsor was something that didn't arise until after the time that the Board heard the case.

A It was never discussed. I never even heard the name Connor mentioned.

Q But it is in the record?

A Yes.

Q I believe you made a statement to the effect that so far as the record was concerned, and I take it the record refers to the Pardon Board's record as well as the records of Delaware County at the time of the trial—

A I know nothing of the records of Delaware County at the time of the trial, Mr. Chairman.

Q I see. You are discussing the question of factors which may have motivated the judge in the sentence on this case. I got the impression from listening to the statements of counsel at the time of the hearing and from statements which you have made here this morning, that there was nothing in the record to indicate what influenced Judge Bretherick's sentence in this case.

A I know of no statement made by Judge Bretherick as to why he was influenced to pass out this sentence.

Q And the statement made by Attorney Lord before the Pardons Board were all assumptions and presumptions on his part with reference to the reasons, factors, or mental processes on which Judge Bretherick decided to impose the sentences.

A No. I would say they were based upon observational facts, such as the connection of his client with the Union, the activities of his client politically, on a basis other than that—

Q There is nothing in the record, however, to substantiate that, is there?

A He said so.

Q Mr. Lord said so, but there is nothing to show that Judge Bretherick made those remarks at the time of sentence?

A Oh, no. I don't mean to be understood as saying that Judge Bretherick said, "I am now going to impose upon you an excessive sentence. I do so because you are a Democrat. I do so because you are a Labor man." I never heard of any judge talking that way. I don't suggest that Judge Bretherick stated for the record what Mr. Lord stated to us was his, Mr. Lord's, conclusion partly from observational facts and partly from inference.

Q What observational facts were there upon which Mr. Lord could make such a statement?

A His client was politically active not only in behalf of the Labor Movement, but in behalf of the Democratic Party. You see, Mr. Chairman, you and I both had the benefit of hearing Judge Bretherick say that he was a million percent Republican. I had had the impression that that was about five percent too much for any judge. Judge Bretherick himself boasted about his very strong attitude respecting his own political convictions, which he has a perfect right to hold. He also said that for 8 years he was the Chairman of the County Committee in Delaware County, and anyone who is close to Delaware County knows—

Q I recall all of that statement of Judge Bretherick. But what I am getting at is are you charging here that Judge Bretherick not only imposed a sentence in this case based upon his political affiliations as well as in other cases, or whether Judge Bretherick tried to perform his duty as a judge without consideration for his political affiliations or people that appear before him.

A I am not here presenting the viewpoint that Judge Bretherick does consider cases without regard to political viewpoint. On the other hand I am making no personal charge that he does consider politics. I am saying clearly and emphatically that Mr. Lord said so. He presented the case in that light before the Board of Pardons. I thought, regardless of motive, that this sentence was, in the light of experience, excessive. I for one believed that Mr. Lord was telling us the truth when he said what motives he believed inspired Judge Bretherick to pass this excessive sentence.

Q But you didn't, in turn, call Judge Bretherick to find out whether or not those were his motives?

A No, I did not.

BY REPRESENTATIVE BELL:

Q Mr. McBride, are you not opening the door in the future for any criminal in Delaware County, whose lawyer says he is a Democrat and active in the Labor movement, who may have been sentenced by Judge Bretherick, are you not opening the door for those people to come up and receive a hearing before the present Pardons Board and receive a prejudiced judgment from the present Pardons Board?

A No.

REPRESENTATIVE LOPRESTI: The question, Mr. Bell, is, is the lawyer a Democrat or the client a Democrat?

REPRESENTATIVE BELL: They would probably both be.

CHAIRMAN TOMPKINS: The question more properly is in connection with the client.

MR. KOHN: May I ask a question?
CHAIRMAN TOMPKINS: Yes.

BY MR. KOHN:

Q What was Mr. Lord's plea to Judge Bretherick at the time of sentence?
A I don't recall.
Q Well, Mr. Lord was going over the testimony of the trial of this case yesterday. You conferred with him this morning about it, did you not?
A I did not confer with him this morning. I did not confer with him yesterday. I saw him the day before.
Q When did Mr. Lord tell you about this fixture stock that you were talking about?
A When I asked him to come up here, I think he told me in this room, I think he showed me a picture.
Q You will admit that that never came before the Board of Pardons for consideration?
A I didn't suggest that it did.
Q You brought it in suggesting that it did, to have it influence the Board in its decision.

A I did not say that that influenced the Board in its decision. I said that you were attempting to convey the idea that this man, DiVito was a big-shot, and I said that events have demonstrated that there is nothing to that because he is still in jail, unable to pay his $1500 fine.
Q Mr. Lord didn't tell you what plea he made to Judge Bretherick or that at that time he indicated any bias or not, did he?
A I didn't ask him.
Q Isn't it a fact that you don't know what happened either at the trial or at the sentencing, of your own knowledge?
A You mean was I present? Of course I was not present.
Q You did not read the notes of testimony of the trial?
A I did not read the notes of testimony—

Q And you don't know what the judge said when he sentenced him; you don't know that?
A I know only what the records of the Board of Pardons show, which you have produced here.
Q You base your remarks exclusively upon that?
A I have no other way of knowing. I have no private source of information whatsoever.
Q In fact, Mr. Lord was not at the trial of this case, was he?
A I have not the slightest idea.
Q Will you take my word for it, that he was not at this trial? It was tried by Mr. Cochran, a Republican attorney.
A I will take your word for it.
Q Well, I show you that the application states that Mr. Lord was not even in on this case. He didn't know.
A I accept that.
Q He didn't know anything about this case until he talked to his client.
A I didn't say that.
Q So anything he stated, he would have gotten it after he talked to his client after the man was in jail?
A I didn't say that.
Q Isn't it apparent?
A It is apparent that James Cochran represented the defendant. I don't know whether Mr. Lord was present or not.
Q Didn't you ask him?
A No.

Q So you don't know the source of his information or how he got it?
A As to what?
Q How the judge sentenced him or as far as the whole case is concerned.
A What he stated is a matter of record. There is very little that he stated that anybody could possibly doubt. That is what the sentence was.

Q He stated a lot of facts that at the time of the senence there were certain facts apparent. You don't know where he got those. He was not present at the time of trial.

A He is here present in the room, and you will have a splendid opportunity to ask him.

BY CHAIRMAN TOMPKINS:

Q General, do you take the statements made by all counsel, and this is not a reflection on counsel or members of the Bar, but do you take statements of counsel made before the Pardons Board as established fact all the time without further inquiring into some of the allegations they make?

A I take the statement of a lawyer as being the truth unless it is either inherently improbable or contradicted by other facts from an equally reputable source; and my experience has led me, in over thirty years, to rely upon statements when lawyers make them upon their own responsibility. I accept the statement of a lawyer as I would have accepted the statement of a judge.

Q Well, now, General, should I make a statement that I believe that Thomas McBride, I think, I presume that General McBride made his decision in this case based upon certain things that I think you perhaps thought about in arriving at that decision, do you think that I should do a lot of assuming as to what the Pardon Board's reasons were? Or are we to be bound on what we find on the record on that.

A Mr. Chairman, you must distinguish between two things. First you asked me whether I take the word of a lawyer, and when I answered, I was talking about facts within his personal knowledge. They are questions of fact which I accept unless inherently improbable or contradicted by a reliable source. Conclusions of lawyers, inferences of lawyers, presumptions and assumptions of lawyers are entitled to no more weight than any other arguments of any other person, legal or lay, medical or lay. All opinions must be judged on the basis of their rationality and the care and attention to detail which they manifest. But questions of fact and of opinion must be clearly segregated.

Now I must distinguish between statements which Mr. Lord made, which were merely matters of opinion, and statements which he made which were matters of fact. Matters of fact have to do with the kind of sentence that was imposed, the length of the sentence that was imposed, the fact that the man was a member of a Labor Union, the fact that he was engaged in politics. His inference that Judge Bretherick held that against the man is entitled to no more degree of sanctity than that of any other person. If anyone denied that or if Judge Bretherick said it wasn't so, his denial would be accepted by me as being true, too.

Q Well, then, the statement of counsel in this respect

might be classified more or less in the category of things you might say as a defense counsel before a jury for your client; you are trying to point up the instances in your argument as against the points the District Attorney would make.

A If it is in that category, then I say that both the argument of the prosecuting attorney and the argument of defense counsel must be carefully distinguished between statements of fact made by either of them. I state the statements of the prosecuting attorneys. I wouldn't think for a single minute of challenging any prosecuting attorney in Pennsylvania on a statement of fact he makes to me. I never have. I don't think I have ever done it in my life, publicly or privately. But as to the conclusions he draws from the facts, I am free to debate them with him or to agree with him. You haven't heard me dispute a single fact that Mr. Kohn made of his own knowledge and you haven't heard him debate with me any statement of fact I made of my own knowledge; but as to conclusions that either of us draw from those facts, we have much disagreement.

Q Wasn't it a conclusion in connection with the allegations of Attorney Lord that motivated Judge Bretherick to the imposition of these sentences; that wasn't the fact, was it, General?

A The ultimate conclusion was a conclusion or inference; it was not a fact.

Q It was not a fact?

A It was, however, based upon other facts and other inferences. It may or may not be correct.

CHAIRMAN TOMPKINS: That is what I was trying to get at.

ATTORNEY GENERAL McBRIDE: Sure.

BY SENATOR YOSKO:

Q Mr. McBride, I hand you this confidential report. Does the Board in disposing of applications for commutation or pardon consider the confidential report that is made by the Parole Board?

A Yes.

Q What does the confidential report state as to the reputation of Mr. DiVito before he was sent to jail?

A I quote it exactly: "Applicant enjoyed a good reputation prior to incarceration."

Q What does the application say relative to the applicant being engaged in gainful employment before he was sentenced to jail?

A That he was employed by the International Longshoremen's Association, Front and Parker Streets, Chester, Pennsylvania; employment is guaranteed

Q What was the stand taken by the judge relative to the approval or disapproval of this application?

A This report says: "The presiding judge will take no position in this appeal."

Q What does that report say relative to the applicant, his family relationship? Was he a good family man or a bad family man?

A "Home, Mrs. Sarah R. DiVito, 603 Lloyd Street, Chester, Pennsylvania, on 10/1/56 agent called at the above address and personally interviewed applicant's wife. Mrs. DiVito, age 39, stated that she is in dire need of applicant's return home to reside with them, as he had been an excellent husband and a good provider. The home is a two-story brick dwelling, consisting of five rooms and bath. It is fairly well furnished and kept in a clean and orderly manner. It is rented for $35 per month from the Samuel Bell Real Estate office, located at 12th and Edgemont Avenue, Chester, Pennsylvania. They have been residing at this address for the past nine years. The occupants of the home consist of the following persons—"

Q Mr. McBride, aside from that, there is a conclusion arrived at in that confidential report based on the investigation that was made by the parole agent, and I think it is in one sentence. It indicates whether he was a good family man or bad family man and that is what I would like to get.

A The conclusion: "This is the only time applicant has ever served time. He is most anxious to obtain a pardon in order to return to his former community to continue with his good standing and reputation. He wants to clear his name because of his children and he wants to return to his job, where he was Secretary and Treasurer for the International Longshoremen's Association.

"Agent personally interviewed the warden at the Delaware County Prison. He stated that since applicant had been incarcerated he had been an excellent inmate and is presently employed as a fireman in the boiler room from 7:00 to 3:00, and then works part-time in the kitchen."

Q Then the confidential report indicates that his conduct was good or bad while he was in prison?

A Very good.

Q Did the applicant rent or own the home in which they lived?

A "It is fairly well furnished and kept in a clean and orderly manner. It is rented for $35 per month from the Samuel Bell Real Estate office, located at 12th and Edgemont Avenue, Chester, Pennsylvania."

Q Mr. McBride, based on the applicant's prior criminal record and taking into consideration sentences that are meted out for the same offense not only in Delaware County but around the State, would you say that sentence that was imposed on Mr. DiVito was an exorbitant sentence or a fair sentence?

A It was an excessive sentence.

Q What is the function of a Pardon Board, and does it take into consideration sentences that are imposed by the courts?

A Oh, yes. Even where a sentence is at the time that it was imposed on the basis of what Judge Laub properly characterized here as prognosis, even where such a sentence is thought to be correct at the time, nevertheless, through the passage of time, conditions may change, which may warrant correction in that sentence; and in some other instances some sentences are deemed to be excessive at the time they are imposed, and in those cases, when and if the proper time comes, where the applicant has his very best chance at rehabilitation, the proper interests of society dictate that he shall be released at such a time. Letting him out sooner may be wrong; keeping him too long may be equally too long. The real desire of society is to see that when men are released, the optimum chance of rehabilitation exists.

Q Is it a function of the Pardons Board to adjust what Pardon Boards might consider exorbitant sentences as they relate to the degree of the crime?

A Yes.

Q And is that a factor that you yourself considered when you acted favorably on this application?

A I considered it the most important single factor in this entire case.

BY CHAIRMAN TOMPKINS:

Q General, the Pardon Board only passes upon those cases which are filed with them; is that right?

A That's right; obviously.

Q You don't go out and call the roster of those in the penitentiaries to find out whether or not you think their sentences are severe or not?

A No, of course we don't; but the law agencies and the welfare agencies, who deal with penitentiaries, when they bump into cases where they feel a man has been rehabilitated or where a sentence has been excessive, they come up constantly, month after month, before the Board of Pardons without any cost whatever to the inmate and present the case fairly, both sides, the judge's point of view, the District Attorney's point of view, everybody's point of view.

Q Those are only the cases that reach the Board; I appreciate that; but the Parole Board has no method of revealing the sentences imposed throughout the State of Pennsylvania to determine whether or not their sentences in their opinion have been severe.

A The Pardons Board has no way of doing that.

BY MR. KOHN:

Q However, you will agree that each particular county has its own problem with its population, its nearness to waterfronts and narcotics, and attitudes on gambling, and therefore the sentences for prevention of those particular crimes differ to some extent.

A I would be the first to agree with that.

Q And the fact that it might be argued to you, as it was in the Caserta case that in Philadelphia they allow them four cracks before they go to jail, and the fact that in Delaware County they sentence them more severely how would that influence the Board of Pardons?

A It wouldn't influence me at all for this reason, that I think the standard that Philadelphia adopts must not necessarily govern Delaware County any more than the standard adopted by Delaware County necessarily govern Philadelphia. Each county by its very existance, having a communal spirit has the right to apply the sanctions that the people generally throughout that county apply. In some parts of the state that you gentlemen are more familiar with than I unquestionably stealing a cow might be a very important offense. Stealing a cow in Philadelphia would not be considered to be half as important as it would in other counties. But it would be wrong to apply a Philadelphia standard to those other counties.

BY REPRESENTATIVE BELL:

Q General, what has me puzzled in this case is this: You have a parole official's report in which it says that the man lives in a house that is rented for $35 a month Yet he didn't remit the $1500 fine.

A We weren't asked to. It is just one of those cases where, not being asked to, nobody on the Board thought about it. Had we been asked to, I just don't know what we would have done. Maybe he should be compelled to pay the fine. I express no opinion on that, even though it might be a hardship. But it may be that Delaware County will see fit to give some opportunity to pay it over a period of time. There are ways and means. The law has to settle that sort of a problem. But it was not presented to us.

BY REPRESENTATIVE LOPRESTI:

Q. Mr. McBride, was the name "Connor" or "O'Connor," I don't know which it is, or the position he held a motivating factor in granting this commutation insofar as you were concerned?

A. As far as I was concerned, I can say absolutely it was not. I can say with equal absoluteness that I am not conscious of that name ever being mentioned or discussed by any member of the Board of Pardones at any time.

BY REPRESENTATIVE BELL:

Q. You do know Mr. James Connor, do you not?

A. I don't believe I have ever seen him or met him in my life. If I have, I am unconscious of it.

CHAIRMAN TOMPKINS: General, do you want to cross-examine yourself or do you have your deputy over here to do it?

MR KOHN: I don't know if I would like the General to say anything in answer to the questions with regard to this.

ATTORNEY GENERAL McBRIDE:; I have no statement to make. I think that this is one of the cases that was carefully considered by the Board. I am quite sure that the Board thought it did the right thing. Others may differ from its judgment. Certainly the Board differed from the judgment of Judge Brotherick; but that is inevitable in the kind of government that we have, that a Board of Pardons may differ with a judge and a Legislative Committee may differ with the Board of Pardons and the judge again may differ with the Board of Pardons, as Judge Brotherick has, and he has charged his Grand Jury on a couple of instances that he deffered with us, and almost automatically, 48 hours later, the Grand Jury comes out with presentment which surprisingly enough happens to agree with the Judge. That kind of difference of opinion, as long as it is honest, will exist as long as we are a democracy; but if there is anything wrong, crooked, or political about this or any other case, I think that this Committee will be doing a great service to the people if they unmask it.

BY CHAIRMAN TOMPKINS:

Q. General, I don't know if we will be having you back on the stand or not before we are finished, but I would like to ask you at this point whether or not you have any recommendations to make as to whether or not you think the present system is outmoded and whether or not it should be supplanted with another system?

A. Mr. Chairman, I welcome that question. I myself have at times past, during the last 30 years, wondered whether another system might be a better one, whether, for instance, pardon applications could not be heard at the particular penitentiary in an informal way instead of having applications heard monthly in Harrisburg in

accordance with the present provisions of Article IV, Section 9. So, because I was interested in it, I made a study of it once and came up with the rather surprising—to me surprising—finding that among law-enforcement officials throughout the country, the Pennsylvania system is deemed to be about as good as any in the country. The constitutions of the various states, all of which I had collected, show that in some states the Governor has the absolute right of pardon without the intervention of any Board or Commission. I myself feel that that is all, that the Governer has no opportunity to cull out the cases without the intervention of some group which will help him in arriving at a proper determination.

The Attorney General of the United States more than twenty years ago caused a study to be made, and as the result of that study, it was recommended that no chief executive of a state should act without having the cases screened by a Board; that such a Board should proceed in public; that it should not be the kind of hearing that I had envisaged of going to a penitentiary and hearing the matter, because then the public could not know what was going on; that this Board should give public notice of its hearings; that they should be held at regular intervals.

As to the constitution of the Board, the suggestion was made that the Attorney General must necessarily be one member of that Board, since he was usually the chief law enforcement officer. Not only was no inconsistency found between his position and that as a member of the Board of Pardons, but it was thought highly desirable that he as a quasi-judicial officer should sit in that capacity.

Another recommendation was that the Secretary of State, here called Secretary of the Commonwealth, should also be a member of that Board. It was stated that no prison officials should be members of the Board. When you get those recommendations and you review the constitutions of the various states throughout the United States, you find that here in our Article IV, Section 9, we come as close to the ideal situation as is envisaged by any of the great minds who have made a study of executive clemency.

There are two officials, the Lieutenant Governor and the Secretary of Internal Affairs, who are members of that Board, and I think, because of the position of the Lieutenant Governor, it is a good thing to have a presiding officer of the Senate as the presiding officer of the Board of Pardons.

Now, the first thing that enters anybody's mind is the question: doesn't that make it political? Well, I suppose in a democracy there will always be the suggestion made that any public officer is political. We are all either Republicans or Democrats, and to that extent we are political. But men who are sworn to do their duty and sit upon a Board of Pardons, I think, can be relied upon whether they are Republicans or Democrats the same way as we rely upon judges, district attorneys, counsel for defendants or any one else to carry out their duties.

Now, on the administrative side, I think much can be done in connection with the Board of Pardons. I don't think they have a sufficient appropriation. I don't think that they have enough help. I think that the staff is greatly undermanned, and the suggestion made here to the effect that the Board of Pardons might well have its own investigative staff is, in my opinion, a very sound one; that the Board can accept recommendations, but in a close situation where they want to get a clear picture of the case, they ought to have a staff of their own on which they depend, who would be responsible to them and whom they would send to see a judge, to see a warden, to see the victims, to see anybody in any case where they feel that additional information is required.

So on the fundamental setup my conclusion would be, and in saying this I have no vested interest in the Board of Pardons because I am just the temporary occupant of the office of Attorney General, I won't be around here long and whether it is abolished or not—abolished means absolutely nothing to me or to any of the other members of the Board of Pardons; but I think it is terribly important that no thought be given to abolition of the Board of Pardons unless and until a thorough study has been made of the situation attending executive clemency in all other states of the United States. You may find too late that you have thrown away that which may be ultimately desired. But as to administrative changes, I would more than welcome them. I think there are things that this Committee can do to help out in the future to see that the Board of Pardons is administered more efficiently to the end that we can end the kind of criticism that has been voiced throughout the Commonwealth at times against one Board and at times against another.

I should like to say this to you, that we have introduced certain letters into evidence. I do not mean to be understood for a single moment as indicating that the Republican Board of Pardons in the past were any more amenable to political influence than I say we are. I accord them the same feeling that they were acting honestly and honorably as I insist that we are ourselves doing.

Q. General, I have asked this same question of several witnesses heretofore. I have got to agree with you that clemency is a sovereign right and it is well founded and ingrained in our common law even before we had our government. There is no thought in anybody's mind that I know of to abolish clemency procedures. What those procedures shall be, there might be some differences of opinion; but in your opinion, and I quite agree with you also that the Lieutenant Governor perhaps is the next highest ranking officer of the Commonwealth of Pennsylvania, and should be the Chairman of the Board as the channel through which these matters get themselves into the Governor's office. The other members of the Board, however, are either elected or appointed by the administration in power. Because of the political complexion of the Board itself, would the Board not be subject inherently to some political pressures at times? I am speaking generally not of this Board, but I am speaking of the system itself.

A. I think that anyone who holds public office in a democracy is subject to political pressures. I think every one of you on this Committee are subject to political pressures, but you have to stand up against improper political pressures. I don't think there is a single one of you who hasn't been solicited at one time or other to do something not necessarily improper, but which

might not have accorded with the way you thought it ought to be done, but you stood up against it.

Now, it is essential that people shall be free to attempt to influence legislation, to attempt to influence by proper means, such as appearing in open court, the course of judicial proceedings; and the people don't really understand that they are doing anything improper when they write a letter to the Board of Pardons or to judges. It so happens by an old circumstance that we received a letter asking for favorable consideration of a case from I United States Congressman from Pennsylvania within the last day or so. I think we might have gotten it yesterday. Surely that man, knowing of this, he must have been honest. He could not read the newspapers and not know that this investigation is going on and then have attempted dishonestly to influence us. We just received the letter yesterday from a United States Congressman from Pennsylvania.

Q. Well, General, do you think that might be minimized with a Board made up, that is, of a more permanent nature, that is to say, a Board which might have some continuity?

A. No, I don't think it would be. I think you must realize this, that you start off with the idea that executive clemency is precisely that. It is the prerogative of the chief executive, the Governor, and the Governor is the man who grants the clemency. That Board only at most recommends it. Even after its recommendation, he may decline to act.

So the ultimate act is the act of the Governor, and it should be his appointees. It should be persons in sympathy with his views, upon whom he is entitled to rely and in whom he will place confidence and trust those who will make this recommendation to him. Now, they should not be subject to political or any other improper influences, but if they are, that does not condemn the system just because there may be political influences. There may be political influences operating upon judges, but you cannot get rid of judges simply because there may be come political influences operating on them.

Q. Well, I don't think there is any thought in mind here of abolishing the system. It is a question as to whether or not any of these matters might be done to improve it.

Now, Judge Laub made a suggestion here, and I am going to ask you whether you are in accord with his suggestion that perhaps the Corrupt Solicitation Act should be extended to the Pardon Board?

A. You mean that anyone who corruptly solicits the Pardons Board to commit an offense should be punished by a criminal charge?

Q. Yes.

A. I am heartily in accord with it.

Q. The same as it applies to any public official?

A. Oh, certainly. I don't think there should be any exemption on persons attempting to corruptly solicit the members of the Board of Pardons. I certainly am enthusiastically in accord with that.

Q. Your tour on the Board has only been since January of this year, of course; but from your experience and with your familiarity with the Board and your knowledge of the Board prior to that time, do you think that the increased load on the Pardons Board may be the result of local officials back home trying to pass the buck in not wanting to assume their responsibilities on some of these cases?

A. I do not see how that could be, because the local official, meaning a judge, once he has passed a sentence, the maximum of which is two years, he has lost jurisdiction of it and could not do anything about it afterward even if he so desired; and therefore, I don't think it is even correct to say that the case load now is greater than it used to be. I think it is less than it used to be. I think we are getting through in a day and a half the material that used to take two full days to hear. I think that the case load was higher a few years ago.

Q. Do you think that the present officials who serve as members of the Pardons Board, with their other duties—you are reviewing better than one thousand cases a year at the present time—

A. A thousand cases in a year?

Q. Yes.

A. Yes.

Q. Do they have time to apply themselves to the review of that with the proper amount of attention that these cases should properly have?

A. I would say, speaking only of the Attorney General, that sitting on the Board of Pardons is one of the toughest, roughest parts of his job. In two death cases that we had, with the testimony covering hundreds of pages, I guess I have occupied all of every night for a solid week prior to each argument, reading every single word that transpired from the beginning to the end of the case. I do not need records except in capital cases. I don't believe any other member of the Board of Pardons can afford the time to read the records in every case; but in every case neither do the judges of the Appellate Courts all read those records when they are before the Appellate Courts. They cannot do it either. Someone, of course, reads the entire record, and each member of the court may be expected to read the briefs; but it is obviously impossible for each member of the Superior or Supreme Court to read all the testimony in a given case.

Now, what we do have as part of this so-called confidential report is a statement of the facts culled from the testimony and supposed to have been done accurately for us by an impartial investigator of the Parole Board in which it points out the difference between the facts as stated by the inmate on his application and the true facts of the case as shown on the records of the case. When we have that on one or two pages, we can get the general picture as to the facts of the case as shown on the records of the case. Most of these cases, it is true to say, do not present a tremendous difficulty. An awful lot of them are premature, and the members of the Board, making their own notations at the time of argument, after having read all the material that they have, may in an awful lot of cases come to the same conclusion, that the application is premature; and it takes no long, extended discussion.

In the rare cases in which there is a lively discussion, that may go on for quite some time.

Now, this Committee visited the Board of Pardons,

and it is true that some of the arguments were short; but you must have noted that the Lieutenant Governor on no single case ever cut short anybody who wanted to speak. Everybody had full opportunity, and at every hearing which I attended everybody has been allowed to speak his or her piece. And if they had a family relation, they were heard. We have had victims appear and speak against the application, and they have been fully heard. Sometimes, when the victim fails to appear, the District Attorney makes a statement on behalf o the victim. All of those things are carefully considered.

Q. General, I have run across several cases here that have come before the Pardons Board which had already been before the Parole Board. Do you find any serious conflict between the Parole Board and the Pardons Board in many cases?

A No, in only a few cases. In only a few cases, where the terms, the minimum terms, have expired, have they come before the Board of Pardons and asked them for a commutation of the maximum sentence; and in every single case of that kind that I personally recall, every member of the Board was anxious to know why it was that the Parole Board turned down the applicant.

I know of no case personally wherein the Parole Board turned down the applicant where we commuted the maximum sentence, except where we had a favorable recommendation from the Parole Board.

Q The Parole Board, of course, doesn't have jurisdiction until the minimum sentence has been served; is that right?

A Or we have cut down the minimum by commutation.

BY REPRESENTATIVE FLEMING:

Q General, one of the things that has come out at these hearings and alarms me is the fact that even after a man has been found guilty by a jury and he has been sentenced by a judge, the Board of Pardons, in recommending to the Governor that his sentence be commuted has used as a reason that they felt he wasn't guilty. Isn't that imposing the thinking of four men who do not have an opportunity to observe witnesses or hear testimony under oath upon that of a jury who has sat and listened to the whole trial? I would lkie to hear your comment on that.

A My comment upon that is that that is one of the most fundamental and important functions in the whole range of work of the Board of Pardons. It has been acknowledged by the Supreme Court of Pennsylvania in decision after decision, a couple of them within the last couple months. wherein the Supreme Court of Pennsylvania has said its duty on appeal is to consider whether or not the evidence is sufficient to sustain the verdict.

Q The Supreme Court's duty?

A Supreme Court's duty. We look at this case to find out—let us take a case of murder. We look at this case to find out whether or not the evidence is sufficient to sustain the verdict of murder in the second degree; and we find that it is sufficient. That means that, accepting the evidence of the Commonwealth to be true as the jury undoubtedly did accept it to be true, we find that that makes out a case of murder in the second degree.

In first degree murder cases, the Act of 1870 imposes a separate duty upon the Supreme Court of Pennsylvania, and that is to independently review the record regardless of the arguments of counsel, to find out whether the essential ingredients of murder in the first degree exist. So in every first degree murder case the Supreme Court of Pennsylvania reviews the record and says either that it does support murder in the first degree or it does not. But in all such instances they accept the evidence as being true.

Whenever counsel in such cases have argued to the Supreme Court of Pennsylvania that the evidence was untrue, that a witness was not telling the truth or that the defendant was actually innocent, the Supreme Court of Pennsylvania has in many opinions said that it not a proper argument to address to the Supreme Court; that is a proper argument to address to the Board of Pardons.

So that by judicial decision by the Supreme Court, by the unbroken history of the Board of Pardons as it has come down to us since the Constitution put it in there, and from the the English Common Law where the appeal was to the Sovereign, there was always an appeal to the Sovereign on the question of actual innocence, not merely on the question of whether the evidence was insufficient to support the verdict.

Am I making my distinction clear?

Q I understand that. But if there is a feeling of innocence, then shouldn't the sentence not be commuted, but pardoned? I am talking about cases where the recommendation was that the sentence be commuted from 24 months to 16 months or something of that nature; and yet the reason was that there was a feeling of innocence on the part of the Board. In my estimation, if there is a feeling of innocence, then the recommendation should be a complete pardon.

A That is precisely my own feeling; but I will cite you a case in which I was a participant some years ago. There was a murder case that took place in Pottstown, which went to the Supreme Court of Pennsylvania, and by a vote of 4 to 3 the conviction of murder in the second degree was sustained.

Later, the Chief Justice of Pennsylvania asked me if I would appear before the Board of Pardons and argue that case on the ground that the man was actually innocent. I did appear before the Board of Pardons, argued the case, and it was not decided immediately, but the argument was based upon absolutely nothing except the innocence of the defendant.

Then a reargument was ordered. I again argued it. I think each of those arguments took two solid hours, in which all the facts of the case were reviewed. That was on the plea that the defendant was absolutely innocent, because if he weren't innocent, he deserved more than he got, and I frankly said so. His sentence, nevertheless, was commuted. The Board did not grant a full pardon, such as we asked for but they granted a commutation.

Q Which isn't consistent, is it?

A It seemed to me to be inconsistent. I felt they should grant a complete pardon; but when they granted this relief which let the man loose from what the Chief Justice of Pennsylvania thought was lacking merit, and

everybody accepted the commutation because there was no point in the man just remaining in jail.

The question of subsequent pardon could have been taken up later; but that was done in that case. I have no doubt that it was done in others, where the Board did not want to go the whole way of issuing a pardon directly out of jail, and instead tok the first step in issuing commutation.

I agree with you that it is inconsistent.

BY REPRESENTATIVE BELL:

Q General, I am a little concerned with this time factor. You testified that you have spent evenings studying these records because of other pressing duties. Looking back to the other legislative session, where we went for 16 or 17 months, which is a long session, does the Attorney General have the time to sit as a member of the Board of Pardons if he covers all his other phases?

A The Attorney General, I would say, does not have the time to do all of his duties, whatever they are. The post of Attorney General is a demanding one. I am not looking for anyone to weep along with me or anything—

Q I will weep with you on it.

A But it is a time-consuming job. Those, however, are tremendously important duties. No Attorney General can shirk them and no Attorney General can shunt them aside on the ground that he has more important work.

Q And he cannot delegate it; is that right?

A He has no power to delegate them. The administrative code specifically states that he cannot delegate those duties; and various screening processes have been thought to be desirable; that is, that a Committee other than this group of four constitutional officers might preliminarily read litigation and applications and determine those which might be meritorious, and then a public hearing could be held only on those which were determined to be the most meritorious cases. In that event, the whole thing could be done in one way. There might only be one-fourth of the hearings.

A method of that kind was suggested when Attorney General Snader was Attorney General. What they did was read the applications and then decided to grant a number of hearings. There might be as little as ten or eight cases a month. Of course, they might grant one, two, four five; or they might grant the whole ten. But they did not take any time to consider the obviously unworthy ones.

I myself lean the other way. I feel that it is an important part of the administration of justice that when men are in jail they have to have the feeling that hope is not gone, that they have to have some tribunal to which they can turn, who will listen to them. Maybe they will not agree with them, and Lord knows how often cases are turned down. There are very few that are granted. But if there comes a time when the inmates in institutions feel that there is no one in the Commonwealth to whom they may turn, hope will be lost and it will be very hard to run the institution.

BY SENATOR YOSKO:

Q Mr. McBride, a little while ago, on the question of commutations to the members of the Pardons Board or to the Pardons Board generally, you said that a recent commutation came to the Pardons Board, a request for commutation, by a member of the United States House of Representatives. You are going to save me a lot of inquiry and perhaps other members of the Board, because they will come to us and want to know who it is. I don't know. Would you mind telling us who wrote the recent letter to the Pardons Board in connection with this case?

A I don't mind at all. I would like to preface it by saying it is about a pending case, and I do not hold it against the man who wrote it.

BY CHAIRMAN TOMPKINS:

Q I just wondered whether we might not inquire into any matters presently pending before the Pardons Board so as not to affect those cases. I think we ought to stick by that. I wouldn't care to prejudice this case before the Board by having it publicly disclosed at this time.

A There is something to what the Senator says. It is from a Congressman. I do not see that there would be any harm done if I were to preface it by the statement that I certainly do not believe that this was an improper attempt to influence the Board of Pardons; but whichever way the Chairman wants to do it, I will hand it to Senator Yosko, the Chairman, or the Committee, and you can regard it as public matter or not, as you please.

BY REPRESENTATIVE BELL:

Q We have some very sharp newspapermen here and they have already gotten the name from the slip of paper.

A I want to be perfectly fair to this man. I don't know him. But I think that rather than keep it a secret now, I think it probably should be spread upon the record.

BY CHAIRMAN TOMPKINS:

Q Why not mention the name of the Congressman, but do not identify the case.

A All right. I can read the letter and not mention the case.

Q All right. I wouldn't care to prejudice this case that is presently pending before the Pardons Board.

A All right. It is the stationery of the Congress of the United States, House of Representatives Washington, D. C. March 28, 1957.

"Board of Pardons
Commonwealth of Pennsylvania,
Harrisburg, Pennsylvania.

Dear Sir:

I respectfully refer to the application of —blank—for commutation of sentence which will be before your Board in April of this year. According to my information, Mr. —blank—is confined at Rockview Penitentiary, and it is my understanding that his record in confinement is good. If such is the case, it is my hope that favorable action may be taken on the application and that he may be permitted to return home to take care of his wife and children.

With best wishes, I am

Respectfully,

Richard M. Simpson, M.C."

BY SENATOR YOSKO:

Q You did say, Mr. McBride, that you do not consider that as exerting political influence?

A No, I don't.

Q And you did say, too, that Mr. Simpson wrote the letter, now that his name has been mentioned. In view of the publicity that had been given to letters written to members of the Pardons Board, he apparently didn't feel that there was undue or improper political influence in that respect.

A I am sure that, if he would have felt it, he would not have written it. I feel reasonably sure—I don't know Congressman Simpson and I have no personal knowledge as to which party he is a member of.

Q That is addressed generally to the Board of Pardons?

A Board of Pardons, Harrisburg Pennsylvania.

BY SENATOR YOSKO:

Q Mr. McBride, during your disclosure here this morning on the setup of the Pardons Board, you did say that administratively there could be some improvement by increasing the budget of the Pardons Board and by giving it additional personnel; but for the time being, you rely on those confidential reports that you get from the parole officer. In this DiVito case, that report which you reviewed, would you say in construing that, that it was favorable or unfavorable?

A I would say that that report would indicate that we should act favorably on Mr. DiVito's application.

Q Sometime during this hearing there was some question of whether or not Mrs. DiVito was on relief. Has there been any information presented to you or anybody else to indicate whether that was true or untrue?

A Since the hearing?

Q Yes.

A Yes.

Q And what was that?

A A certificate to that effect from the officials in charge. Mr. Lord, have you got that?

BY CHAIRMAN TOMPKINS:

Q Was this received prior to the time it made its decision, General?

A No, I say it wasn't. Mr. Finnegan got it. It is a letter of the Commonwealth of Pennsylvania, Department of Public Assistance, dated April 1, 1957.

> "Subject: Mrs. Louis DiVito, 402 East Fourth Street, Lester, Pennsylvania
>
> "To the Honorable James A. Finnegan, Sectary of the Commonwealth
>
> "From Robert P. Ray, Deputy Secretary.
>
> "In reply to your telephone request this afternon I learned the following from the Executive Director of the Delaware County Board of Assistance Mrs. Louis DiVito and her three children received assistance from October 1, 1956 to December 17, 1956. At that time her husband was in Broad Meadows Prison. Assuming that the usual investigation was complete, it would have been determined that Mrs. DiVito had no means of support. However, Mrs. DiVito was able to secure part-time employment, and at the time she reported this to the County officers she said that her older daughter would also be getting employment. She asked that her case be closed."

CHAIRMAN TOMPKINS: Because matters of importance have come up, it makes it necessary for the Attorney General to be elsewhere this afternoon; and because the Lieutenant Governor cannot be present this afternoon, these hearings will recess until 10:00 o'clock tomorrow morning.

(Adjourned)

Reported by:

Joseph Kieslich
684 City Hall
Philadelphia 7, Penna.

BEFORE THE JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION No. 1 PRINTER'S No. 8

AT HARRISBURG, PENNSYLVANIA, APRIL 4, 1957

VOLUME X

Patricia L. Sayer
P. O. Box 496
Harrisburg, Penna.

CEdar 2-2832

INDEX

Witneses	Direct	Cross	Redirect	Recross
James K. Arnold (Recalled)		1691		
James A Finnegan	1703	1714		
Victor H. Wright (Recalled)	1786			
David S. Kohn (Recalled)	1830			
Frank R. Hean (Recalled)	1841			
James William Evans (Recalled)	1844			

BEFORE JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in House Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a.m., Thursday, April 4, 1957.

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

VICTOR H. WRIGHT, ESQUIRE, Deputy Attorney General Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street Harrisburg, Pennsylvania
For—Committee (Assisting Counsel).

JAMES K. ARNOLD, ESQUIRE, 2109 Market Street Camp Hill, Pennsylvania
For—Committee (Assisting Counsel).

CHAIRMAN TOMPKINS: Are you ready to proceed Mr. Kohn?

MR. KOHN: Yes sir.

CHAIRMAN TOMPKINS: We might as well get under way.

MR. KOHN: I have nothing further to present on the DeVito case at this time. I think Mr. McBride has some witnesses.

I believe Mr. Kohn said he had finished with his DeVito presentation.

ATTORNEY GENERAL McBRIDE: Yes I heard that. I think you want me to wait until Senator Yosko gets here.

CHAIRMAN TOMPKINS: Let's proceed.

ATTORNEY GENERAL McBRIDE: All right, if you will just indulge me a second. I thought Mr. Kohn might have something else so I will rearrange our work here and proceed immediately.

Mr. Arnold, would you be prepared to take the stand at this time on the question of the correctness or incorrectness of the number of commutations recommended by the Board during the year 1955-1956?

MR. ARNOLD: Just a minute, sir, I will go back and get that information; I haven't it with me.

ATTORNEL GENERAL McBRIDE: All right, at your convenience.

JAMES K. ARNOLD, recalled on

CROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Your full name Mr. Arnold is what?

A James K. Arnold.

Q Your position as Assistant Counsel for the investigating board has already been stated of record.

A Correct.

Q Of cource you are a member of the Bar?

A I am sir.

Q You did make a check to determine the correctness or incorrectness of certain figures that I had put in evidence showing the number of cases granted by the Board of Pardons during the year 1955-1956?

A Yes sir; in so far as your question refers to a count of the records in the House Clerk's office, that is so.

Q Yes. Now first af all, it is correct, is it not, Mr. Arnold, that what our report showed was that the Board granted 205 applications for the year 1955?

A Yes sir.

Q Now you made a check. Will you tell the committee what check you made, the results of that check that you stated in your former testimony, and then tell us any review of the entire matter you conducted in the interest of telling the Board precisely what the facts are, and then what your ultimate statement now to the Board is.

A Surely sir. In the Office of the Chief Clerk of the House of Representatives, I counted the number of favorable recommendations by the Board of Pardons in the year 1955. I would like to take one year at a time; it is easier for me.

Q Sure, I would like you to.

A And the Board had issued a figure of 205 for that year. In my count of the said records, I counted 310, or a difference of 105. That was the essence of my testimony prior to this time.

Subsequent to that time, with the cooperation of Mr. Hean in the Pardons Board and Miss Justine Cohen, the Secretary to the Lieutenant-Governor, I believe, we went into this matter and came up with an explanation for the difference in the figures.

Miss Cohen recounted the recommendation which I had counted in the House Clerk's office, and contrary to my 310, she came up with a figure of 311, which was an error, of one, on my part in favor of the Board, and arose by virtue of the fact that two recommendations had been made on the same sheet of paper, one on back of the other, which I had missed.

The discrepancy arose for this reason: Although I believe we could fairly say that, technically, 310 were favorable recommendations by the Board and signed by the Members, the fact is that 108 of those were made by virtue of the fact that under certain legislation the Parole Board recommends to the Board of Pardons that, I believe, after 5 years of good behavior or some such time—I am not totally familiar with the legislation—certain prisoners be commuted as to the maximum.

We can fairly say that so long as there is no objection by a district attorney or a judge, which is seldom, if ever, the case, the Board of Pardons then automatically recommends to the Governor that these maximums be commuted; and it is a process of, shall we say, an administrative function rather than discretionary.

So that, although we have technically 311 for the year 1955, a recount would show that the number of cases heard by the Board—cases of the type with which we have been dealing in these hearings and recommended by the Board—were 203, or two less than were stated into the record originally.

Q That is, there were two types of cases considered by you in coming up with your figure of 311?

A Yes sir.

Q One case type was the type which is heard in open hearing, wherein the applicant or his representative appears, the district attorney makes a recommendation, the prison authorities, and so forth; and then as a result of that hearing the Pardons Board either recommends clemency or recommends the refusal of clemency.

A That is precisely correct.

Q That is one group?

A One group; yes sir.

Q Then there is another group of administrative recommendations by the Board of Parole, which are not heard in open hearing, and so to which the Board of Pardons simply asks the district attorney whether he has any objection to any of such cases, and upon hearing none, all of those are granted?

Q That is, as you understand it, a practice that has existed so long as the Board of Parole has existed?

A I believe so; yes sir.

Q If we were trying to consider comparable figures as to former Boards, we would have to add a similar group to the figures in years past?

A Yes sir. The net result of all this is that the study which has been made and to which we referred originally, was made on the basis of cases heard by the Board in open hearing, the type of cases we have been dealing with here. That type case was counted and referred to through the past 5 years, or whatever it was, and none of these Parole Board recommendation cases were included; so that the study itself, although technically short some number, by virtue of not including these others, is none the less valid because what technical error there may be, was uniform back through the years. Actually, the records are then substantially correct.

Q Therefore, in conclusion, as to the year 1955, the present Board of Pardons published a statement that it had granted leniency in 205 such cases?

A Yes.

Q Your study shows that they had granted leniency in 2 less, or 203 such cases?

A Yes sir; in the category of the discretionary hearing and recommendation.

Q Now as to the year 1956, the figures released by the Board showed that executive clemency had been granted in 137 cases. When you made your first check up, you reported to this Board that clemency had been granted in how many?

A I had counted, in 1956, from January to November inclusive, because December recommendations were not yet on file, and that number totaled 270. I believe from your exhibit I then added your number of 10 for December, and my figure then totaled 280 for 1956.

Q Now is the explanation of the 280 for the year 1956 the same as the explanation you gave as to 1955?

A Yes, exactly the same.

Q That is, you did include both the adversary public hearings and the administrative actions upon recommendation of the Board of Parole?

A Yes sir; exactly.

Q Now eliminating the administrative actions on recommendation of the Board of Parole, how many did you find in which executive clemency was granted by the Board in 1956?

A Well, according to the study made by Miss Cohen, in which I put full faith, the number came to 135, which is again perhaps 2 less than—

Q Two less?

A Than the records show.

Q So that the Board published a figure stating 137 cases of executive clemency and you discovered that there were, in fact, 135?

A Yes. I think what happens is this: When an applicant is recommended favorably and dies, his case is not considered by the Board in this study; whereas, for record purposes, the application remains on file.

Q Therefore, the percentage figures of executive clemency granted during the years 1955 and 1956 would, if revised, have to be revised downward?

A Downward; but there would be no material change whosoever, maybe one hundredth of a per cent.

Q So that you would state fairly that, from your investigation, that figures put out by the Board as being a correct statement of its grant of executive clemency for the year 1955-1956, were substantially correct?

A That is right sir; limiting it to the discretionary type.

Q Sure, that is the only type considered by the Boards release.

A I see.

Q That is the type that we have been considering in this hearing.

A That is exactly so; yes sir.

ATTORNEY GENERAL McBRIDE: That is all.

REPRESENTATIVE BELL: I have a question for General McBride. Do you have a copy of the Constitution there? You mentioned these so-called administrative commutations. Can we use that term and understand what it means?

ATTORNEY GENERAL McBRIDE: It is not a commutation.

REPRESENTATIVE BELL: Is it a pardon?

ATTORNEY GENERAL McBRIDE: No it is not that. It is the release of a man from parole. It is a commutation of the maximum term, not of the minimum term.

CHAIRMAN TOMPKINS: General, doesn't this arise by reason of legislation?

ATTORNEY GENERAL McBRIDE: Precisely, Mr. Chairman.

CHAIRMAN TOMPKINS: Which gives a sentenced person so much time off each month or year of sentence for good behavior while in prison.

ATTORNEY GENERAL McBRIDE: No, not that.

CHAIRMAN TOMPKINS: It is not that?

ATTORNEY GENERAL McBRIDE: You are thinking, Mr. Chairman, of the Act of 1901, which in respect of flat sentences entitles a man to 2 months off for the first year, 3 months off for each succeeding year of good behavior. It is not that at all. This statute arises in respect of the administration of the Parole Act. When the Parole Act was put into effect it provided that the Board of Parole would supervise men who, having served their minimum sentence, were released on parole to serve the maximum of their sentence on parole; or, in addition, those whose minimum sentence was commuted by the Board of Pardons, and they, too, would serve the maximum sentence on parole.

It was provided that the Board of Parole itself, having supervised these men for a period of time and being of the opinion that further supervision by the Board of

Parole was wasteful and unnecessary, could itself make recommendations to the Board of Pardons so that that man need no longer be supervised on parole.

Every month the Board of Parole makes recommendations to the Board of Pardons. In the list which the Board of Pardons puts out, and I have sent for some to show you precisely what I mean—

THE WITNESS: Calendar.

ATTORNEY GENERAL McBRIDE: The calendar lists all the cases by nane and number which are to be heard by the Board. In the back of the book, there is a section—for instance, I have the Wednesday and Thursday September 12 and 13, 1956 calendar—where there is a whole group of cases headed as follows: Recommendations from the Board of Parole to the Board of Pardons for commutation of maximum sentence to parolees who had an excellent record for 5 years and upward and which will be recommended to His Excellency the Govevrnor unless objection is made.

On the very next page is a list of people from the Allegheny County Workhouse and from the Philadelphia County Prison at Holmesburg, Pennsylvania, and you will see that it is headed: Recommendations from the Board of Inspectors from county prisons for prisoners whose terms expire during the months of September, October, and November.

At each session of the Board of Pardons, the Lieutenant-Governor, as the presiding officer, states in the presence of the district attorney of Allegheny County the list of people covering Allegheny County, and says, "Unless objection is heard, these recommendations of the Board of Parole will be made for commutation of the maximum sentence." The district attorney invariably responds, "There is no objection." At the end of the Philadelphia cases the Lieutenant-Governor, as Chairman, then says the same thing, 'Unless objection is heard, this recommendation will be made." In respect of the other matters from the Board of Parole, the announcement is made in open court, and then those recommendations automatically go to the Governor.

What Mr. Arnold has been explaining is that when he made his first count, in addition to the recommendations that the Board had made after hearings, he counted these additional recommendations. They had never been considered, either in the figures that were put out for the Board of Pardons in 1956-1956 or for the Board of Pardons in 1953-1954.

That is a matter of statute, you see, Mr. Bell, it would not be in the Constitution; but there is nothing unconstitutional about it.

REPRESENTATIVE BELL: Aren't they commutations under Article IV, Section 9 and the hearing therefore constitutes an open hearing?

ATTORNEY GENERAL McBRIDE: They are a commutation, I would say, within the coverage of Article IV, Section 9, supplemented by a statute covering this precise condition. There is a public hearing in a sense that it is done in a public room such as this; the calendar is advertised, the district attorney is given the opportunity to state his objection, and when none is heard, a pro forma action is taken as many pro forma actions of other deliberative bodies are taken.

REPRESENTATIVE BELL: I have no further questions, Mr. Chairman.

ATTORNEY GENERAL McBRIDE: Is it clear to all the Members of the Board? Both sides have attempted fairly to get this question straightened out, and I must say that nobody has been fairer than Mr. Arnold about it.

SENATOR SCOTT: It is easy to understand how the question arose and the discrepancy arose, and it is just as easy to understand the explanation.

ATTORNEY GENERAL McBRIDE: It is another evidence of the fact that people working together in good faith to accomplish a truthful answer will do it.

BOARD'S EVIDENCE

JAMES A. FINNEGAN, a witness having been duly sworn, was examined and testified as follows on

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Finnegan, your full name is what?

A James A. Finnegan.

Q Your address is what?

A Fifty-seven forty-three Springfield Avenue, Philadelphia 43.

Q Your official position is what?

A Secretary of the Commonwealth.

Q When did you become a Member of the Board of Pardons?

A In January 1955.

Q How long during the year 1955 did you continue to be a Member of the Board of Pardons?

A I heard all of the cases during the year 1955.

Q Did you hear any of the cases during the year 1956?

A No I did not.

Q Why not?

A Well I resigned from my position effective the latter part of December 1955, as Secretary of the Commonwealth, and for that reason I was not eligible to sit on the Board in 1956.

Q Did there come a time when you came back to your position as Secretary of the Commonwealth?

A Yes I came back in January of 1957.

Q Did you sit on the Board of Pardons during January 1957?

A Yes I did.

Q Have you sat during February and March?

A Yes I have.

Q There has been testimony here by a Mr. Smith that he communicated with you, had a conversation with you, sent a letter of introduction to you, and you will recall the other testimony given by Mr. Smith in connection with yourself. Mr. Finnegan, will you go on in your own way and tell the Board what you know of this matter?

A Well, normally, I would hate to dignify Mr. Smith's remarks and his testimony by going into a lengthy dissertation on whether or not he was actually telling the truth. In 1955, I think it was in the January session of 1955, Mr. Smith came to me at a Pardons Board hearing and gave me a letter of introduction—it was my first hearing—from the then Mayor of Philadelphia, Joseph Clark. In the letter it stated: Any courtesy shown to Mr. Smith would be appreciated.

Mr. Smith at the time also attempted to indicate to me that he was quite a believer and follower of Joseph Clark and of Richardson Dilworth. I gained the impression from him that he was a resident of Philadelphia, and though from my own political experience in Philadelphia I never had any knowledge of Mr. Smith's activities on one part or another, I was of the belief from what he said to me that he was definitely a very staunch Democrat and was working on behalf of the Democratic Party in that area.

Is was never more surprised in my life when Judge Bretherick read a letter from Mr. Smith, indicating that he was a very staunch Republican, and that the Board was biased against him because of this fact. I myself had no knowledge whatsoever that he was a Republican or that he was a resident of Chester County.

Subsequently to that, Mr. Smith wrote me a letter and the letter is in evidence. It was the most flagrant attempt I have yet seen of trying to exert political influence on the Board of Pardons. I was considerably irate about having received such a letter and I was going to answer him, but out of consideration for my Secretary, I felt that I could not answer him properly unless strong language was used, and I did not want to subject her to that.

He did call on me. I don't know whether it was at my request or whether he came in voluntarily. I told him then that I had every reason to report him to the Bar Association for having written such a letter and that the only thing preventing me from doing that was the one saving sentence he had in there: "Of course, I do not believe that the Board can be influenced politically." But then he goes on to state in the letter: If there was any doubt about his partisan sympathy, he would be deeply indebted to me if I would show the letter of introduction, that Mayor Clark had given him, to the other Members of the Board.

In the final paragraph of the letter he goes on to state, in reference to the now famous Shattuck cases, that not only would this be in the interest of justice—the assistance given to the Shattucks—but also it would be in the best interest of the party, I think he put it, or of the Democratic Party, I believe, since they were the center of Democratic activity in Sullivan County.

I told him in no uncertain terms just exactly what I thought of him attempting to do any such thing as that, particularly since he should have known better since he was a Member of the Bar.

I think the Smith testimony is important not because of what Mr. Smith said but because of the fact that Judge Bretherick, in his testimony, used that letter as a basis for his personal opinion that there was political influence used, that is, Smith's letter to Bretherick.

This was the reason that he had also charged the Grand Jury on two different occassions that political influence was dominant in the Board of Pardons. I, for one, would very much like to have seen Mr. Smith substantiate the accusation he made that there were several cases he knows of in which political influence was used.

He asked for immunity because of the confidential relationship that existed between lawyer and client, and in open court he said he would be very happy to give it to the members of the investigating committee in executive session.

He later changed his mind about this. Yet, a considerable number of newspapers had headlines: Lawyer accuses Pardon Board of having political influence in cases before them.

There was no correction of this, or a very limited correction.

I think any accusations such as Mr. Smith made are damaging to the reputations not only of this Board but of previous Boards. I say of previous Boards, particularly, because Mr. Smith testified that his clients were now on parole, and because he also testified that this Board had not granted any clemency in these cases. Obviously he was referring to a Board other than this one. However, I think the same consideration should be shown to other Members of previous Boards.

Here was an accusation leveled by a man whose credibility certainly is questionable.

Q Mr. Smith at no time said that he had evidence of political activity on the part of the present Board, did he?

A No he did not.

Q That is the way, however, it was reported?

A It was interpreted in that manner.

Q As if he had said that he had evidence of political pressure on the present Board?

A That is correct.

Q Mr. Finnegan, there was testimony also, which I believe you will recall, that at one time you are said to have met a Mr. Wolford, a lawyer. Do you recall that testimony?

A I do.

Q Tell the Board what the facts are in respect of it.

A Well, the district attorney or the assistant district attorney of Erie County, when he was asked by one of the Members of the Board whether he had any knowledge of political influence, stated that he had not. I think a further question was asked of him: "Were you ever suspicious that any political influence was used." He answered: Yes, he was. He was asked to explain that and he explained it in the following manner.

There was a case of a pardon being argued in front of the Board for a man who had served no time at all in jail prior to going to jail. I believe the man's name was Kauffman, from Erie. He testified that he had seen the counsel for this individual by the name of Wolford, and Wolford had said to him, even though he was the advocate of Kauffman, that he thought something was wrong because he was pleading a pardon case where the man had not served any time. Then, later on, according to McLaughlin's testimony, he saw Wolford introduced to me and I shook hands with Mr. Wolford.

There was further testimony that the disposition of the case was that the case was refused, but this, in Mr. McLaughlin's mind was sufficient indication for him to be suspicious of political influence being exerted upon the Board.

I have no recollection of ever seeing Mr. Wolford. I would not know Mr. Wolford if he walked through that door there. I have no recollection of being introduced to him. As any of you members of the investigating committee realize, or anybody in public life constantly being introduced to people, it would certainly be less than polite if you did not offer to shake hands with them.

I do not know Mr. Wolford personally. I have no recollection at all of ever having met Mr. Wolford. Perhaps I was introduced to him. Perhaps I did shake hands with him; I would not testify to the fact that I did not.

Certainly if this is an indication of political influence, when the pardon was turned down, we are stretching the evidence pretty thin.

Q Was there any influence used whatever upon you in any of those Erie County cases?

A There was absolutely no influence used on me at all in any of the Erie County cases.

Q Was there any evidence, political or otherwise, of any improper influence used upon you in connection with the Delaware County cases?

A There was absolutely none.

Q In any single case in which you sat as a Member of the Board of Pardons, have you ever been influenced politically or improperly?

A I have not.

Q Have you acted in each case only in accordance with what you thought the merits of the case required?

A I acted on what I believed were the merits of the case, and that alone was what I based my decision on.

I would like to say this. Counsel for the committee has indicated—at least by his actions and by his type of questioning—that there has been political influence and that there was little merit to the commutations granted.

If we want to get into the substance of these cases that have been investigated by this Board, if we want to get away from the trivia of "Why did you grant a two weeks lesser sentence? Why wasn't it properly recorded?" There may have been clerical errors, I don't disagree with that.

It was testified in those Erie County cases that the judge had written to us and asked that some clemency be given to Martin and that he be released for Christmas. Others were to be released at the same time, which was January 6, and the Board agreed that the commutation should be lessened a few weeks more so that they could enjoy Christmas at home. It was just as simple as that.

I would like to say this further about the Erie County cases. The Board was much more severe than the district attorney. Since Mr. Kohn consistently refers to Mayor Flatley as the Democratic Mayor of Erie and Schwartz as the Democratic State Committeeman, perhaps the investigating committee will pardon me if I say that the Republican District Attorney was asking for commutations when the Board felt they should not grant commutations.

I think you have evidence in your files now which will indicate that in all but two cases he asked that clemency be extended to the men who were involved in this gambling conspiracy and that the Board refused in a number of occasions to go along with the commutations he requested in June.

We had one case which was particularly bad, in the fact that this man had a very serious previous criminal record, a man by the name of Dominic. He was arrested for murder, he was convicted of accessory after the fact of murder, he had a burglary charge, a larceny charge and other charges. He was engaged in this gambling conspiracy. Yet Mr. McLaughlin came up here and asked that his sentence be commuted.

The Board refused to commute that sentence because of the previous record.

There was not one case that was argued in front of this Board that clemency was not requested, or at least not opposed, by the district attorney and also by the judges.

We had one judge, I forget his name at the moment, I think it was Evans—

Q Yes.

A Who testified the reason he said he had no objection, or that he would rely on the Board, was because he could not withstand the pressure back home, or words to that effect.

So if political influence was used in any of the Erie cases, then I think it would be well, perhaps, for the members of the Legislature to inquire back in Erie, as to what political influence was used on the district attorney or the judges to make recommendations such as came to the Pardons Board.

ATTORNEY GENERAL McBRIDE: Cross-examination by the committee.

CROSS-EXAMINATION

BY MR. KOHN:

Q Mr. Finnegan, I did not quite follow that first part of your speech. Could you give it again? I mean the beginning of it.

A I will be glad to answer any question.

Q Well, to the first question you gave about a ten minute answer. Could you give that again?

A I don't think I am going to dignify that with an answer, unless you tell me specifically what you are referring to.

Q I mean, you berated Mr. Breterick and everybody else. I did not quite follow you as an answer to the question Mr. McBride asked.

A What was the question?

Q I don't think your answer was responsive.

A What was the question you are trying to get me to answer?

Q Well, will you give us that about Judge Bretherick being—

A I will be very happy.

Q Your reasoning there.

A Judge Bretherick came into this room, Judge Bretherick was asked a question, and you have the transcript of the testimony that was given here that day: "Do you know, personally, of any political influence that was ever exerted on the Board of Pardons?" His answer was: No he did not. Then he said, however, that it was his personal opinion.

The further question was asked on him: "On what do you base this personal opinion?" He said: "Well, I have a letter here, and if you will allow me to read it, I will then indicate to you on what I base my personal opinion." This is the famous letter from Charles Smith.

Q Is that it? I mean, that is on what you base the fact that Judge Bretherick came up here and testified?

A These are the notes of testimony.

Q Weren't you on the Board of Pardons when the executive minutes contained the letters and correspondence between Judge Bretherick and the Board of Pardons?

A I was.

Q Isn't it a fact that those letters were sparked off by

the McSorley and Caserta cases and not by Smith's letter? Didn't Judge Bretherick, even prior to getting Smith's letter, criticize the Board of Pardons?

A Did he? I don't know.

Q Well, don't you recall that the Board had quite a discussion in its executive minutes in regard to Judge Bretherick's remarks to a Grand Jury back in March?

A In March of this year?

Q March of 1956.

A Well, I was not on the Board in 1956.

Q I understand you were not but you are ascribing Judge Bretherick's entire remarks to a letter he received from Smith. Now I am asking you whether—

A Mr. Kohn, I am referring you to what Judge Bretherick testified here in these hearings.

Q Don't you recall the testimony that he addressed the Grand Jury of Delaware County about March and June of 1956 in regard to the McSorley and Caserta cases? Don't you recall that?

A He may—do I remember the testimony?

Q What you are trying to tell—

A Just a minute, if you will let me answer the question.

Q Go ahead.

A I do remember the testimony that he addressed the Grand Jury. I don't recall what date it was.

Q I mean, you won't say, then, that this letter is the thing that sparked Judge Bretherick into criticizing the Pardons Board? The letter was not even in issue at that time.

A Again I go back to the testimony given before this Board. We are talking about political influence and undue influence used on the Board. I merely say this, that Judge Bretherick, in his own language, testified that his personal opinion, that political influence was used on the Board, was based on the Smith letter. If that is what was testified to, I am not going to try to dig into Judge Bretherick's mind as to what started him off on the tirade against the Pardon Board.

Q I am asking you, Mr. Finnegan, isn't it a fact that Judge Bretherick, even before receiving the letter, had criticized the Board of Pardons before the Grand Jury of Delaware County and alleged that there was political influence involved? Don't you know that?

A He may have done so. That wasn't his—

Q Didn't you check the executive minutes?

A Well, now, if I am going to answer your question, I wish you would have the courtesy to allow me to answer them and then ask me further questions.

A Go ahead, Mr. Finnegan.

A I merely say this: This is what Judge Bretherick said up here; this is his testimony; you have it right in front of you. This is what he based his personal opinion of political influence on (indicating letter).

Q What I am asking you about is, didn't Judge Bretherick say he addressed the Grand Jury and criticized the Board even before he got the Smith letter?

A Yes I will admit that.

Q Then how can you say the entire basis of Judge Bretherick's testimony was the receipt of a letter and that is what he said was the basis of his testimony?

A Either you are not listening very clearly or I am not articulating very well.

Q Well, let's blame it on me, but I don't understand it.

A I am answering the question of political influence and undue influence that was used on the Board.

Q You are saying—

A I will go over it again. Judge Bretherick was asked by one of the members of the investigating committee: Do you know of any political influence or any other undue influence that was brought to bear on the Board? He said: No, not personally. "Then this is just your personal opinion"—well, let me read it for you. Perhaps this will be clearer.

"A I shall have to say to you that I do not"—this is in answer to the question about political influence—"but I want to say this to you, that I am not saying to you that only this Board was governed by political consideration. I think other Boards have been also governed by political consideration."

Q What page are you reading from?

A One ninety.

"Q Do you have any evidence of that?

"A No, certainly.

"Q Well then if you do not have any evidence.

"A That is my opinion.

"Q An opinion which you could not substantiate with evidence?

"A I happen to be a member of the public for some unknown reason, and I am expressing my opinion as an individual who happens to be a member of that public.'

Question by the Attorney General: "Mr. Chairman, I submit we are not entitled to listen to gossip whether it comes from the Judge, the public or anybody else. There should be something better than mere gossip.

"THE WITNESS: Well, you will have it here if you will let me read it.

"CHAIRMAN TOMPKINS: This witness has, from the record, stated that he was giving his opinion as a member of the public—you did not say the public generally—but he was merely expressing his own views in connection therewith, and we will permit that.

"ATTORNEY GENERAL McBRIDE: If you are going to permit him to say that this was dominated by political influence without the scintilla of evidence, that is unfair.

"CHAIRMAN TOMPKINS: We will let him speak for himself and take the letter for what it is worth.

"ATTORNEY GENERAL McBRIDE: You got a letter here from some man. That is nothing but hearsay.

"SENATOR YOSKO: We will take his statement for what it is worth.

"THE WITNESS: Well, I think you are going to find it is worth something too, after I read it if you will let me.

"BY SENATOR YOSKO:

"Q That is what I want you to do. I have asked you if you have evidence of political influence on this Pardon Board or any other Pardons Board in so far as arriving at decisions. If you have it, present it to us. That is what we are here for.

"A I told you that it was my personal opinion, and that I have something in my hand on which I based that personal opinion.

"Q That is what we want."

Q Do you think Judge Bretherick based his whole statement on that?

A All I can do is read for you what Judge Bretherick said.

Q I know, but you are interpreting it for us.

A I am not interpreting anything. It seems to me, Mr. Kohn, this is what we have done consistently throughout this hearing. The Chairman was fair enough when he opened these hearings to say that they were not here to crucify anybody, but they wanted to get the facts in the case. For five weeks we have been listening to a lot of trivia such as you are trying to inject into this at the present time.

Q You don't think that is a political statement, do you?

A I think it is very clear to me. "I told you that it was my personal opinion, and that I have something in my hand on which I based that personal opinion." That seems to me to be an adequate answer to your question.

Q Are you trying to tell this legislative committee that they should not hear trivia, or what they have heard is just trivia, as you would like to call it.

A Well, I think it has been trivia.

Q Well, that is your opinion isn't it?

A That is my opinion.

Q It may not be the opinion of the committee.

A It may not.

MR. KOHN. That is all.

BY CHAIRMAN TOMPKINS:

Q I just want to clear up that point you have been laboring on. I got the impression from your testimony, Mr. Finnegan—and if I am wrong I am sorry—that Judge Bretherick had charged the grand jury in Delaware County because of the receipt of this letter from Smith.

ATTORNEY GENERAL McBRIDE: He did not say that at all.

CHAIRMAN TOMPKINS: The records we have indicate that Judge Bretherick charged the grand jury in Delaware County on March 5, 1956 and also on March 8, 1956 there was a presentment. The Smith letter to Judge Bretherick is dated March 14 and is in congratulation. The first sentence says: "My heartiest congratulations on your efforts to expose the political decisions on the part of the Board of Pardons." So the sequence in connection with the documentary evidence we have certainly clearly indicates that Smith had not contacted Judge Bretherick prior to the time Judge Bretherick charged the grand jury.

THE WITNESS: That is correct, but I will also say this, that since Judge Bretherick saw fit to charge the grand jury and indicate that political considerations were involved, and since he could not substantiate that here before the committee other than with the Smith letter that is the reason I brought it in.

BY CHAIRMAN TOMPKINS:

Q Well I wanted to correct the wrong impression that maybe I got, that Judge Bretherick charged the grand jury because of the Smith letter. But the documentary evidence does not—

A No, I say that the charge to the grand jury of political consideration being involved was not substantiated by anything that Judge Bretherick said before this investigating committee other than by the Smith letter.

Q I believe you also made a statement to the effect that no correction had been made in connection with the charges leveled by Mr. Smith of political influence. Were you referring there to any correction by Smith or a correction by the press?

A Correction by the press.

Q If you recall, we do have a letter which we put into the record, from Mr. Smith, requesting that that be stricken from the record; and it was directed to be stricken from the record.

A That is right. While we are on that Smith case, since the investigating committee is considering ways and means of strengthening the hand of the Pardons Board and attempting to eliminate any improper procedures, I think it might be well if the investigating committee would take into consideration these men who make it a practice, and whose sole practice or a good portion of it is devoted to Pardons Board work, to find out what type of a bill of goods they are selling to the prisoners in these penitentiaries.

Here you have Mr. Smith. Eliminating the Shattuck cases, which were argued as one case, he had an average of about four cases a year, in the four years preceding this Board taking over. He suddenly went up to 15 cases in one year. I am wondering whether or not he was going into the various penitentiaries and telling them that he was a personal friend of Members of the Board; whether he was showing them, perhaps, a photostatic copy of that letter from Mayor Clark, in an effort to solicit business.

This I think is very serious. It could be construed as some type of ambulance chasing within the prison walls in order to get Pardons Board cases. I think this is a very serious matter that the legislative committee ought to take into consideration.

Q Mr. Finnegan, may I state that I wholeheartedly agree with your views in that respect. If you have any information to that effect, this committee certainly would welcome it, not only as to Mr. Smith but as to any other individual whom you suspect has practiced before the Board since you have been a Member.

A I would be very happy to do that. I think if the legislative committee would recommend in their findings that the Pardons Board be given the privilege of investigating lawyers whose work seems to be solely before the Pardons Board, it might have a salutary influence on the presentation of cases.

Q Let me ask this question. I tried to bring it out yesterday in connection with some things. Perhaps I did not make it quite as clear as I intended. In going over the transcript of the statements made by Counsel before the Pardons Board, we find quite a number of cases where they made statements with reference to the case which do not have any foundation on the record as it appears in the court where the case was tried and where the sentence was imposed, and have no foundation in connection with the reports which the Board itself received, the confidential reports. I am quite seriously concerned as to what investigations the Board may make in addition to the information furnished to it, based upon statements made to it by Counsel.

A Well, I think we take into consideration this fact: Members of the Bar are subjected to other disciplines than the normal individual. Certainly a reputable attorney appearing before the Board of Pardons would not deliberately lie to the Board, since the chances of him coming back in the future are relativelly great.

I think we take into consideration that these men are responsible citizens and that they would not knowingly lie about any circumstances or any situation, because an investigation would disclose that.

When you say that they present evidence which has been contradicted by confidential reports, I don't know to what you are referring. Certainly if we have that confidential report and a lawyer testifies to the contrary it is usually called to his attention at that particular time.

Sometimes the lawyer unknowingly will say that the prisoner has a good prison record. We, of course, have the prison record in front of us. It is an indication that perhaps the attorney had not delved into this as much as he might. But he has been given this impression by somebody—by the prisoner himself, perhaps—without a follow-up on his part.

It is called to his attention immediately that the supporting material we have up here on the case contradicts that particular item.

So I think where we have that information available to us, we can see whether or not the attorney has told the truth, whether or not he has been guilty of a misstatement.

Q I am not trying to attack members of the Bar. I do not want to give that impression. Let me ask this question, then. I understand many times there are people who appear before the Pardons Board who are not members of the Bar or anything else. Do you have the feeling that there are other people appearing before the Pardons Board who may have been out openly soliciting this business before the Pardon Board?

A I do not. I merely point out that it struck me as rather odd—this is a combination of circumstances—in view of what Mr. Smith had done; the presentation of a letter from Mayor Clark, the follow-up of a letter to me saying that he wanted to sit down and have tea with the Members of the Pardons Board because he thought this confidential relationship should exist between the Members of the Pardons Board and the attorneys so that they would have greater confidence, this sudden jump from about five cases or six a year to fifteen cases; it indicated to me that perhaps maybe everything was not as kosher as it might be, that perhaps there was solicitation by Mr. Smith.

BY REPRESENTATIVE BELL:

Q Mr. Finnegan, in your testimony you stated that Mr. Smith, the attorney who testified here, was undoubtedly casting reflections on previous Pardons Boards. Do you recall that testimony?

A That is right.

Q That is your personal opinion?

A Which I thought were unjust, by the way.

Q Well, that is your personal opinion, is it not?

A That is my personal opinion.

Q Do you have anything on which to base that opinion other than testimony that has been received in front of this Board?

A No, I do not.

Q Is it not also as logical that because of Mr. Smith's feeling toward the present Pardons Board he could have clients who have come to him, whom he has referred to another attorney to appear in front of your Pardons Board?

A I don't think I understand that question.

Q I will repeat it. Isn't it also equally as possible to assume—since your testimony was an assumption—that Mr. Smith could have had clients who came to him after the present Board was constituted, and because of Mr. Smith's feelings toward the present Board Mr. Smith could readily have referred them to another attorney?

A I think that would be highly illogical, Mr. Bell.

Q That is a matter of personal opinion.

A It is a matter of personal opinion. I think it would be highly illogical.

REPRESENTATIVE LOPRESTI: Mr. Chairman, I think in that respect the record will show that Mr. Smith claimed immunity by reason of the fact that he would disclose a confidential relationship between himself and a client. He also said that these clients were now out and were still under the supervision of the Parole Board. Since he has had no commutations by the present Board, the inescapble conclusion must be that his clients were let out by a previous Board and that the confidential relationship which he claims must have been between his own clients and himself, otherwise he would be entitled to no immunity.

REPRESENTATIVE BELL: Mr. Chairman, I think the respective opinions in this matter speak for themselves. I think the testimony speaks for itself. In my opinion, I think it is just as logical that these people could have been turned loose since 1955, and I think it is also just as logical that Mr. Smith, as an attorney being consulted by a client or the family of a client, could have referred to another attorney the matter of appearing in front of this Board.

BY SENATOR FLEMING:

Q Mr. Finnegan, do you think that the Pardons Board is adequately staffed? I think Governor Furman testified that you had two employees. Is that correct? I am not sure.

A I think it is very inadequately staffed. I think we are very much in need of additional clerical and stenographic help on the Pardons Board to properly do the job.

Q Recognizing the fact that you do have the use of the investigators for the Parole Board, would the creation of several investigators for the Board to use by itself be advantageous?

A I find myself in disagreement with the Attorney General on this matter. I don't think it would be a good idea for the Pardons Board to have its own investigators. I say that for this reason.

The great worry of this investigating committee is whether undue influence was exerted on the Members of the Pardons Board. Now if investigators work for Members of the Pardons Board, certainly under the present Board—and past Boards with their activities as I know them—I think it would probably have worked out.

But looking ahead into the future, if there were some Members seated on a Pardons Board who were inclined to allow political consideration to influence them, if they had investigators working for them and the investigators knew that a particular Member of the Board would like a favorable report on an individual, I think it might very well lead to that investigator being sub-

jected to additional pressures which he normally would not.

At the present time, I don't believe anybody knows who does the investigating on a particular case. The Parole Board has a great number of investigators and a great number of men who are assigned these cases. Nobody in particular knows just who exactly is doing the investigating.

If we had four, six, or eight investigators, it would be well known to the public at large that these men were investigating these particular cases.

For that reason, if it is deemed that a more complete investigation than the one they gave us should be made, I still think the investigation should be left in the hands of the Parole Board as, well, an added insurance against influence being used.

Q I think the Parole Board investigators do a very fine job. I do not mean to replace them; I mean just a couple of investigators. For instance, you yourself this morning testified about something up in Erie—I don't know what it was. Would it be advantageous if the Board had their own investigator they could send up just to take a look at that, strictly on their own, to report back to the Board.

A Well, it might be. You mean not to have the investigator investigate the background of the individual—

Q That is right. I mean to rely on the Parole Board for that.

A Yes I would agree that that might be an advantage.

CHAIRMAN TOMPKINS: Senator, to apprize you of what Mr. Finnegan has testified, yesterday while General McBride was testifying he recommended, or made as one of his recommendations, that the Pardons Board should have an investigative staff of its own. That is the reason Mr. Finnegan made this statement in opposition to the General.

SENATOR FLEMING: I am sorry. I did not hear the General yesterday.

BY SENATOR FLEMING:

Q Mr. Finnegan, because of the multiplicity of the duties of the Members of the Pardon Board, such as you have as Secretary of the Commonwealth and Miss Blatt has in her duties, and so on, do you think there should be some full time Members of the Pardons Board?

A Well I don't think you could have same full time members and some part time members. If a decision is to be arrived at, I believe the amount of time reviewing a case should be spent by all the Members of the Board. It is not only the open hearing that we consider. We get a file several days in advance which gives us all of the background material.

I asked the Secretary of the Board if he would indicate what is included in that run-down that we have. It is rather comprehensive. I don't know whether the members of the investigating committee are aware of just exactly the type of information we have some days in advance. This is together with the testimony that is presented at the open hearing.

We have the summary of investigation by an agent of the Board of Parole; they send to us an investigation report. They give us the parole plan, if any. They give us the home, the sponsor, the employment, the reputation of the applicant.

They give us the comments of the judge and district attorney, as given to the agent in an interview as to the merits of the application.

They give the facts of the crime as taken from the notes of testimony and other facts. They give the criminal record, if any.

They also note on there any parole violations, and if there are untried indictments. They give us a list of accomplices and their sentences and places of confinement, if any, or whether any of those have been commuted.

The commutation summary as prepared by the staff of the penitentiary gives us the following information. It gives us the general information as to the applicant, his age, place of birth, intelligence rating, marital status and so forth.

It gives us the current case, the term, number and indictment; the name of the trial judge, date of sentence, effective date of sentence, the sentence and time served.

It gives us the detainers, if any; gives us a list of previous arrests and convictions of probation and parole.

It gives us the institutional report. It gives us, (a) the conduct report, (b) the vocational report, his work in the institution, (c) his educational report, what schooling he had taken in there.

It gives us the medical report, the psychological report, the psychiatric report.

It gives us the savings of the applicant, money he received while confined. It gives us a summary of the progress of the applicant. It gives us the classification summary, his fingerprint code and other details.

It briefly relates the applicant's version of the crime and the official version of the crime.

It gives the applicant's family background, the story about the father and mother of the applicant, the economic and social status, names and addresses of brothers and sisters and their employment.

It gives us the personal history of the applicant, his development as a youth, the school history, serious illnesses, if he has traveled, his recreational pursuits, and everything else.

We have his mental rating, mechanical test, personality and temperament; general impression of personality makeup.

It gives us the sources of the information contained in the report. Then we have letters, of course, from the trial judge, the district attorney, and other interested persons. A picture of the applicant, and frequently a confidential report from the prison staff itself.

So we do have this material.

Q Well, now, may I ask this, Mr. Finnegan, and believe me, I am not trying to trap you; I am after information—

A I know, it is perfectly all right.

Q If you carefully went into a case before you and went over all that data furnished to you, about how long would it take you to do that? Not while you are in the hearing; I mean while you are in your office.

A You get pretty used to going through this material that is available to you. Say, for instance, you come to a case where obviously, on its face, it has no merit: you give little consideration to the material that is given to you.

If the case is such that from a relation of the facts

of the crime taken from official testimony—which is very brief, about three paragraphs—if you feel from the official facts of the crime, the sentence, the applicant's version of it, that there is certainly a question of doubt as to whether he has served sufficient time or not, then you would go into this background material.

Now this usually means, I would say, maybe ten to fifteen cases a month are deemed worthy of consideration. Consequently you go into that background material at that time.

Some applications on their face are not worthy of very serious consideration. If you have these files in front of you three days in advance, you can get adequate information on practically every worthwhile application that is being submitted to you.

BY REPRESENTATIVE BELL:

Q Mr. Finnegan, I am not trying to trip you up, but in 1955 the figures released by the Pardons Board show 205 pardons and commutations. Now this ten to fifteen a month: do you mean that is in addition to the ones granted?

A Well, say fifteen a month that would be 120 plus 60; that would be 180. So maybe it is 17 or 18; maybe it is 20.

BY MR. KOHN:

Q Do you pick them out in advance?

A You review the cases.

Q I mean, you say about 15 a month. I think what Mr. Bell means, those are about the ones that are granted. I mean, you have to review others besides those don't you?

A That is right.

BY CHAIRMAN TOMPKINS:

Q Your case load runs in the neighborhood of 90 a month, doesn't it?

A Not since I have come back on the Board. At one time it ran that high. Since I have come back on the Board it is running now between 60 and 70.

If we have 70 cases listed, the chances are that there will be 6 or 8 continuances asked for; there will be 4 or 5 cases passed. So I would say that at the present time we are averaging about 60 to 70 hearings a month at tops.

BY REPRESENTATIVE BELL:

Q Mr. Finnegan, in 1955 your records show 178. I believe the Board does not sit for two months in the summer.

A I am talking about since I came back on the Board, as I indicated to Mr. Tompkins. Prior to that the case load was much heavier. It is much less than it had been.

Q The reason I am following up Mr. Fleming's question is that I am vitally interested as to whether the present Members of the Board can find enough time to do both their official duties; as in your case, Secretary of the Commonwealth, and undoubtedly you are a member of other boards and have other official positions. My question would be: do you have adequate time to perform all your duties or do you have to neglect certain other duties as Secretary of the Commonwealth to perform your duties as a Member of the Pardons Board.

A I don't think there is adequate time in State government to do all of the things you are supposed to do, anyway; and even if one were relieved of Pardons Board activities I am sure there would be other activities thrust upon you, so that the same neglect would occur.

Q Well, I have one other question and then I will yield to other members of the committee. Do you feel that the Pardons Board administrative staff should be kept in the Department of Justice or should it, perhaps, be turned back to the Lieutenant-Governor's office since he is the President?

A I think it should be kept in the Department of Justice because there will always be questions involving law and interpretation of rules and decisions. I think it would be much better to keep it in the Department of Justice so that at anytime there can be that close liaison that exists between the Attorney General and the Pardons Board.

Q You have no difficulty or complaints arising by reason of it being in the Department of Justice?

A No, none at all.

Q You recommend it stay there?

A The only complaint is that he does not ask for enough money in his appropriation to properly staff a Pardons Board.

BY CHAIRMAN TOMPKINS:

Q Mr. Finnegan, how much larger a staff do you think you ought to have, in order to have an effective staff?

A Well, I think there should be perhaps an Assistant Secretary, another stenographer, and another clerk.

Q Would that involve something like eighteen or twenty thousand dollars a year?

A Something like that, I would say; maybe twenty-five thousand at tops.

BY SENATOR SCOTT:

Q Mr. Finnegan, this may be trivial, but I am personally interested in knowing whether you, as the recipient of the Smith letter, read into that letter anywhere, in any sentence, anything of a sarcastic nature. I ask that because you will recall that when Mr. Smith was on the stand he testified that certain wording and certain capitalization was put in to show sarcasm and nothing else.

Did you, as the recipient of that letter, read into it sarcasm?

A Senator, I don't think I am capable of interpreting that. Perhaps I am not such a student of grammar that I could read anything like that into it. I thought he was saying here merely what he intended to say. Down here where he said, "I believe, therefore, that not only the interest of justice but of the Party will be served if something is done about the return of these fines"—

Q When he capitalized the "Party" you thought he was giving it due respect and not a touch of sarcasm?

A I definitely did. I mean I thought he was referring primarily—and I think he was—to the "center of the Democratic Party in Sullivan County." Now if he wanted me to believe that he was a Rpublican, it is certainly a little difficult for me to reconcile myself that he would come up to me and say, "Well, I am a very active Republican in Chester County; I am presenting this letter from Mayor Clark in the hopes that you will take a

favorable look at all cases I have up here." I just don't think that adds up, Senator, in my book.

Q Neither do I.

BY SENATOR YOSKO:

Q Mr. Finnegan, you said the Pardons Board was understaffed. Who prepares the budget request for the Pardons Board?

A The Justice Department, I would asume; and I would assume that the Justice Department asked the Pardons Board for their recommendations.

SENATOR YOSKO: Is there anybody here who did prepare the budget request for the Pardons Board?

ATTORNEY GENERAL McBRIDE: It was prepared before I got here. I discussed it with the Committee on Appropriations. I made the point that we needed additional money. But the Department of Justice, during the last biennium, was cut dreadfully, including the Board of Pardons. The Department of Justice proper was cut. The Justice Department asks for certain appropriations but then does not get them. Present indications are that the Department of Justice requests o the Appropriations Committee will be cut. We do not know that. However we pruned it as much as we could and asked only for realistic amounts.

I must say that when we presented our budget to the Appropriations Committee they listened very carefully when I explained the need for additional money for the Board of Pardons, and it looked to me as though they might well approve such a request.

I know that Chairman Tompkins has indicated to me that if the Board of Pardons needs additional funds, perhaps this committee might be helpful in solving our problem.

REPRESENTATIVE LOPRESTI: Mr: McBride, would you mind just stating for me what the problem is or why the need for additional help?

ATTORNEY GENERAL McBRIDE: There are a great number of applications received. We have to take care of advertising, we have to list the cases, we have to take care of all printing and the preparation of the cases for hearing. Mr. Hean has to go through all those records. We have to have our discussions.

There is need for secretarial help, need for an Assistant Secretary to aid him in his efforts.

Administratively the statute puts the Board of Pardons into Department of Justice. The Lieutenant-Governor, of course, is the Chairman of the Board of Pardons and presides over it. For administrative purposes the people who are employed are paid out of a separate part of the budget of the Department of Justice.

REPRESENTATIVE LOPRESTI: I want to ask this question now. Apparently every person who has made a request for a hearing has been heard; all of the papers required to be filed have been filed. Are you indicating that perhaps they are not filed in a manner they should be or completed to the fullest extent they should be?

ATTORNEY GENERAL McBRIDE: No. I will give you one example that is considered to be important. I received a letter from Mr. Gernert, who is Chairman of the Board of Parole, that once the Board of Pardons decided to recommend an executive clemency, there ought to elapse more time between that recommendation and the time when the Board of Parole would have to process the application for parole.

I considered that to be an important question; that is, should a man, after getting word that he is going to be released, wait two or three months before being released? So I called on all of the wardens of the various penitentiaries and penal institutions, including the Commissioner of Corrections, to advise me as to what they thought about this kind of time. They were of exactly the opposite opinion.

They thought that once a man found out he was going to be released, every hour of every day was double time and that the papers should be processed as soon as possible.

Once our decision is arrived at that executive clemency should be granted, then, in the preparation of the papers for circulation among the Members of the Board of Pardons, sending them off to the Governor's office, once they are signed and all the Reasons approved, the additional help would enable us to cut down the time from, possibly, a month to 2 weeks—possibly 1 week or 10 days—thus doing what the wardens of the penitentiaries think is a very important thing, that is, to get the men out of the jail once they know they are going to get out. That extra time is terrible time suffered in jail.

SENATOR YOSKO: Mr. McBride, are the employees of the Pardons Board considered employees of the Department of Justice?

ATTORNEY GENERAL McBRIDE: Yes they are.

SENATOR YOSKO: There is no separate appropriation earmarked for the Pardons Board?

ATTORNEY GENERAL McBRIDE: Yes there is.

SENATOR YOSKO: Is it incorporated in the Department of Justice appropriation?

ATTORNEY GENERAL McBRIDE: Yes, in this sense, the Department of Justice sends its request for an appropriation in the following way.

The Department of Justice proper—meaning the second floor, E floor of the Capitol building, the sort of hard core of the Justice Department; then, second, the Bureau of Corrections including all the jails throughout Pennsylvania, which come under the Commissioner of Corrections; and, third, the Board of Pardons as a separate aspect of the budget; then fourth, the Commission on Uniform State Laws, which is a small appropriation.

SENATOR YOSKO: As I understand it, in the past the appropriation of the Department of Justice is given to you in a lump sum figure. Hasn't that been the practice?

ATTORNEY GENERAL McBRIDE: It has been allocated however to those categories.

SENATOR YOSKO: Now what would prevent you, as Attorney General, having complete supervision over the Department of Justice of which the Pardons Board is a part, from adding additional employees to the Department, I mean to the Pardons Board, paying them out of your lump sum appropriation?

ATTORNEY GENERAL McBRIDE: One very important practical question is that in the last biennium the requested appropriation of the Department of Justice was cut so deeply that we have been running a $52,000 deficit. The Department could not open and close its doors without actually running a deficit.

There is not a penny in the Department of Justice

that could be used for the purpose, Senator, that you speak of, by putting on additional employees.

SENATOR YOSKO: But you would have that power and that right, though, wouldn't you?

ATTORNEY GENERAL BcBRIDE: I would say that under the present system of line by line earmarking of funds I would hesitate to use any employees from the Departmet of Justice proper in the Board of Pardons, without authorization, at least, of the Executive Board.

BY CHAIRMAN TOMPKINS:

Q Mr. Finnegan, in line with some of our discussions here this morning I want to read an editorial from the June 25, 1956 Pittsburgh Sun-Telegraph and then ask a couple questions about it. It is entitled:

"LAW OR POLITICS

"It may be just pure coincidence, of course, but if so, a very remarkable coincidence, that since the Democrats came into control of the State Pardons Board, Democratic politicians from Allegheny County have been going before the Board in increasing numbers to plead for the release of convicted criminals.

"Incidentally, the Board, as the Sun Telegraph previously has noted, has been quite generous in pardoning convicted Democratic politicians, notably former Mayor Flatley of Erie, and others there found guilty of accepting bribes from a big gambling racket.

"Another circumstance in the activity of Democratic politicians as pardon brokers is calculated to cause a raising of eyebrows. We refer to the big fees that some of them, lawyers by profession, are reported to have received for interceding in behalf of convicted criminals. "Councilman Frederick Weir, for example, is alleged to have received a $1000 fee, plus $100 expenses, for appearing before the Board to solicit the release of a man sentenced in 1954 to serve from 10 to 20 years for armed robbery.

"Councilmen Paul F. Jones was paid $200 to seek a pardon for a man convicted of voluntary manslaughter. Norman P. Solicitor for Sheriff William H. Davis, received $150 to intercede in behalf of a man serving a sentence of 7½ to 15 years for assault" That appears to have been a rape case.

"Even though this may be legitimate legal service, the suspicions may be raised that it is political influence rather than legal skill which their convict clients are buying.

"It is curious, too, to see public officials opposing another public official. Assistant District Attorney Louis Abramson, in his efforts to prevent the pardoning of the malefactors. Somehow or other, politicians working as pardon brokers give a bad impression."

Now, understand, Mr. Finnegan, I think there was a letter put in here during this investigation to the effect that counsel was discharged because of the fact he said he thought maybe he could do better before the Board if he hired a Democratic lawyer.

The question I want to put to you is this: Do you think an applicant should be advised that persons of a certain political affiliation have no influence on the Board and they are making a terrible mistake spending money for that purpose?

A I certainly do and I would be very much in favor if there was some method that could be devised of indicating that because a lawyer happens to be of a certain political persuasion does not mean that he has any influence on the Board. I think that idea should be dissipated.

About Counsel's reading of the letter, that he was being supplanted by another attorney, Mr. Kohn in turn supplanted the attorney who supplanted him. In other words, I believe Mr. O'Leary was the original counsel in the case and then Mr. O'Leary was asked to step aside in behalf of Mr. Kohn. Mr. Kohn was then asked to step aside in favor of Mr. O'Leary. So this is "Tinker to Evans to Chance."

Q There is one additional question I would like to ask you in connection with this editorial. It appears as though they are making remarks here in connection with the solicitor for the Sheriff having represented an applicant. I want to ask you if you think those associated with law enforcement should appear as counsel for an applicant before the Pardons Board.

A Well, unless you want to make it a matter of statute, I think we have to take counsel as they come to us.

Unless you want to make it a matter of State law—and I don't know whether this could be done constitutionally or not—that anybody who is in the employ of or an elected official of a municipality, borough, township, or the State could not appear in Pardons Board cases, I don't know what we can do about it.

Frankly, with the exception of Mr. Jones, I don't know the other persons referred to. Mr. Jones did not appear before me.

Q I think they were referring in here to the solicitor for the Sheriff. Certainly the Sheriff is involved as a law enforcement officer and it is the solicitors duty to advise him on matters of that kind.

Now I know that the Pardons Board does not have the right to say to him "because you are affiliated with law enforcement you have no right to appear before us;" but as an ethical practice, do you think it is right for a person in that capacity, in the language of the street, to try to "spring" these men?

A Let me say ethically it leaves something to be desired. At the same time I think you get down to the root of the investigation here and the root of how the Pardons Board was established.

If the people on the Pardons Board do not have the necessary character and integrity, then political influence is going to be brought to bear and undue influence is going to be brought to bear. If the people who sit on the Pardons Board are people of character and integrity, I don't think the people of this Commonwealth have anything to fear at all, regardless of who presents the case.

While we are on that, let me speak about a very revered and respected Member of the Senate who happens to be of Democratic persuation. I think he has been before the Pardons Board on many occasions. I am speaking about Senator Stiefel.

The reason I bring his name into it is because of Mr. Smith. Mr. Smith testified that he saw a lot of politicians hanging around the outer office. When he was asked to name them, he had some difficulty; so he came up with

former Sheriff Aus Meehan and Senator Stiefel. It was pointed out to him that Senator Stiefel was an attorney.

For the record here, I would like to say that since I have sat on the Pardons Board I have not seen Sheriff Austin Meehan in the Capitol at all, let alone in the Pardons Board. I have seen him once in Harrisburg and that was in the lobby of the Penn-Harris. So I am quite sure that Sheriff Meehan, at least during my regime up here, has never been in or around the Pardons Board hearings.

Q Mr. Finnegan, the point I am trying to make is this. By this question I have not been trying to attack the integrity of the Pardons Board—

A I know that.

Q I am thinking of these people who are in prison, who might have a false notion that if they hire somebody of a particular political persuasion, they can do them more good than somebody else of another political persuasion, and they are taking their money for the purpose of representing them before the Pardons Board.

A I think it would be greatly to the advantage of all concerned if that could be made pointedly clear to everybody who is attempting to seek a Pardon. How you would do it, I don't know.

Q Did I interrupt your answer there?

A I just merely wanted to point out, on Senator Stiefel, that he has been before the Pardons Board on five occasions, and, as much as I admire and respect Senator Stiefel and I am sure my colleagues on the Pardons Board feel likewise, in all of his cases the pardons have been refused.

BY REPRESENTATIVE BELL:

Q Mr. Finnegan, would you recommend the adoption of legislation that would prohibit from practice in front of the Pardons Board any attorneys or other persons who hold political office, elective or appointive, on a State or local level?

A No I would not. I certainly believe that they have no influence on me. For instance, Members of the Legislature who are only in Session, six months, they have 18 months, if they have a client who wants them to appear before the Pardons Board, as Members of the Bar. I think they should be permitted that.

I do not think they should be permitted to bring any undue influence on us, however, and I must say this for the Members of the Legislature; I know of not one case where any Member of the Legislature who appeared before the Pardons Board has ever attempted to influence at least my decision, and I am sure that is true as to the other Members of the Board.

Q Do you have any recommendation as to legislation to be adopted to prevent bringing any undue influence to bear on the Members of the Pardons Board?

A I don't see how you coud do it, very honestly. Again I go back and say you have to depend on the honor and integrity of the Members of the Board.

There has been some testimony here that we should have a non-political Board. Well, I don't know how you would get a non-political Board. If the Governor makes the appointments, I am sure he is going to make appointments of his own political persuasion. If the Members of the Legislature make the appointments, I am sure that the Members of the Legislature would appoint people of their own political persuasion.

I just don't know how you would get a non-political Board anywhere at all, on any commission or any board. I don't think that is inherently wrong, I might add.

BY MR. KOHN:

Q In relation to this alleged $1000 fees of Councilman Weir, does the Board have any authority to investigate the fees charged by an attorney for a case?

A We do not.

Q Aren't you familiar with the Section which says that you do?

A No I am not. Let me answer that by asking a question. Do you think that is an unusual fee?

Q No, I just wondered if you did. I mean I have no quarrel about it. It depends upon the case.

A It depends on the case. it depends on the talents and ability of the lawyer.

Q I just wondered whether you felt you had any authority to inquire into those things.

A Not to the best of my knowledge.

Q Isn't it a fact that the Board of Pardons has already laid down some rules in regard to the elimination of certain persons who may appear before the Board for applicants if they have been previously connected with the case either as the district attorney or the prosecuting attorney or in any other way?

A Not that I know of.

Q Well, they have, under Sestion 2. Weren't you familiar with that?

A I was not familiar with it.

ATTORNEY GENERAL McBRIDE: Section 2 of what?

MR. KOHN. Section 2 of the Board of Pardons Rules.

ATTORNEY GENERAL McBRIDE: Of the rules?

MR. KOHN: Yes. What I am trying to show, in regard to some of the questions here, is that the Board of Pardons has already, to a certain extent, eliminated the appearance of certain counsel.

ATTORNEY GENERAL McBRIDE: I just wanted it to be shown that it was the rules we are talking about. I was not criticizing. It is not the statute.

MR. KOHN: That is right, it doesn't make sense without that.

BY MR. KOHN:

Q Mr. Finnegan, let me ask you one or two other questions. Did you sit on the Devito case?

A Yes I did.

Q Don't you think, in all fairness, that it does give rise to political influence if the case is specially listed when the application had not been filed, and such information gets out into the prisons? I am not condemning it—

A I would think that is true. I don't know how that occurred. That is one of the reasons why I said we needed additional clerical help.

Q I know. I will agree with you.

A On the Devito case, as far as the special listing is concerned, I think it is important for us to keep in mind one thing, because it is the basis on which the special listing was given.

We were told—at least evidence was presented—that this man's family was in dire circumstances. I think facts

since then have proven that. Despite the statements that this man was a very successful gambler and a very large gambler, the fact really is that his wife was on relief, that for the last 9 years he has lived in a $35 rented home, and that she is now employed as a part time waitress in a cafeteria at Westinghouse at $25 a week.

Q Well, isn't that unfortunately true of many prisoners? The question I want to ask you is this: Don't you think this sort of thing gives rise to influence on the Board?

A No I do not. Let me answer by saying this. I don't think that you can show me on a first offense, where a small time gambler was given 23 months and fined $1500—

Q I am not arguing about the sentence. I may agree with you.

A I am talking about the facts we have to consider. Actually there was considerable merit in the DeVito case, despite all of the testimony here to the contrary. I think the Board itself would have done a grave injustice to this man had they not commuted his sentence at the time they did.

I am not questioning the exercise of your discretion. What I am asking you is: Don't you think that where such a situation exists, that case could take its turn with other cases? There are many such cases in a penitentiary.

A Special listings are granted in unusual cases. The fact that this man's family was in dire circumstances, I think, was one of the considerations that should be considered.

Q Isn't that a consideration of the case even before the application is filed and before you know the facts?

A Before what?

Q That is giving the case certain consideration even before an application is filed or even before you know what the facts are. Where did you get the facts upon which to act in a case like that?

A Well, I am talking now, of course, as of the date of giving the commutation.

Q Maybe you don't understand my question.

A I understand your point. I don't think I signed that special listing hearing, did I?

Q I don't know. I really don't know. In other words, where you take something out of context that other prisoners are not entitled to, aren't those the sort of things, whether justified or not, which give rise to a great deal of allegation of political influence?

A Mr. Kohn, let me make it clear that other prisoners are entitled to special listings.

Q Do you know of any that got special listings before they filed an application?

A Before they filed an application? No I don't.

Q Then isn't it a peculiar thing, if the allegation was that this family was in such dire need, that the investigation was made within five days when usually the investigations are made in 30 days? Who would direct that the investigation by the Parole Board be made that quickly?

A Well, I think there was a previous report by the Parole Board a few months before that.

Q No, not before the application was filed.

A This was not his first application, if I understood the case correctly. Was it?

Q Yes sir.

A His first application? Well, frankly, I imagine that the Parole Board would be requested to make an investigation immediately and it would be done in that case.

Q There was reference to some Member of the Board having been talked to and that was the reason for the circulation of the petition concerning the special listing.

A I was not a Member of the Board at that time.

Q All right, I did not understand.

If the reasons given for a special listing, that is, even before the application and the facts are in the hands of the Board, were that this woman was in such destitute circumstances that this had to be given special consideration even before the application was filed, and if it was such a metorious case, isn't it peculiar that the Board would turn it down?

A Mr. Kohn, the Members of the Board would not know that. In other words, if a case for special listing is sent out by Mr. Hean, he would say: A special listing is requested in this case. The Members of the Board would assume that an application had been filed.

Q Mr. Hean said that was because the attorney said that she was destitute and in such dire need, and yet, acting on that and giving special consideration—which is not extended to others—the Board turned the application down. It does not make sense, does it?

A Turned what application down?

Q Turned the application of Devito down on the first thing.

A I believe that is right. The only thing I can communicate on it is what I have heard here, because I did not sit on that case.

Q You were on the Board at the time the matter came up the second time and was also again specially listed even before a letter was received, and the same reasons were set forth, that she was destitute and working; and the Board acted exactly contrary to just what it did a few months before, giving as the reasons the fact that his wife was destitute.

A Well, number one, there were two new Members of the Board. Attorney General McBride and I became Members of the Board during that period. You will note that our rehearings in 1955 were about twice as many as they were in 1956. Since we were a new Board, we did grant rehearings in a number of cases that normally would not have been granted.

Q I notice that was the policy of the Board in 1955 when you went on. Now do you think as a matter of public policy that it is a good practice to encourage the filing of applications which have pust been heard maybe six months previous to that just because the makeup of the Board had changed? I am not trying to criticze. I am merely asking your opinionn. Do you think that should be a valid reason?

A There were a number of these cases that were reheard at the request of former Members of the Board. They felt that some injustice had been done the applicant.

Q Are you talking about the one where Gene Smith appeared?

A That is one of them.

Q The Cirello case?

A Yes, that is one of them.

Q In that case, of course, the Board had turned it down.

A That is right.

Q And a Board Member who had been on the previous Board and had voted, appeared before the Board?

A I don't think that is exactly true. I think the Board had commuted the sentence.

Q That is right.

A And Governor Fine refused to sign it. I think that was the set of facts in that case.

Q And the Board Member appeared—

A Well, one of the Board Members said that the action of Governor Fine was arbitrary and unjust and was working a great hardship on this prisoner.

Q Your Board turned it down also, didn't it?

A That is right. I thought we were entitled to find out who was right, whether it was the Board or whether it was the Governor.

BY CHAIRMAN TOMPKINS:

Q Mr. Finnegan, I have just a couple more questions here. This question has not been asked of any Member of the Board yet, and I would like to get some expression of opinion on it. It has been disclosed here that when an application is turned down, there is nothing put in the files as to the reason why it was turned down. Do you find any difficulties in connection with picking up a case at its second or subsequent hearing, by reason of the fact that there is nothing in the file to indicate why it had been rejected the first time or any of the previous times? Do you think that the Board should, for the purpose of the record, put something in the file indicating why the refusal was made?

A Not necessarily. I would say that in 95 per cent of the cases the answer would be that the application is premature. In other words, somebody comes up, he may have a good prison record, he may have an excellent family background. We will say somebody comes up for armed robbery and—what is the sentence? Six to—

ATTORNEY GENERAL McBRIDE: Ten to twenty.

THE WITNESS: He gets 10 to 20, and an application for commutation is presented, we will say in a year or two years. It is obvious that he has not served sufficient time, at least in my opinion. Normally he would have served sufficient time and it would be premature, that is all.

I would say that in 95 per cent of the cases, Mr. Chairman, that is the reason they are turned down: because the application is made prematurely.

BY CHAIRMAN TOMPKINS:

Q I would like to ask one more question. From time to time we see a great deal of editorial uprising in the State regarding the general public in connection with actions of the Pardons Board. What proceses would you define within the Pardons Board as being those processes which are designed to give consideration to the public in case of commutation or pardon?

A Well, the district attorney is always permitted to appear and testify that a certain feeling exists in the community. They very seldom do that. We could have 150 investigators, and you would have to go out and take a Gallup Poll.

I will take my own community, which I know better than any other community in the State, Philadelphia. If you went out without having a prepared list of questions and without being able to give the facts in the case to the person you were querying, I don't think you would get a satisfactory answer.

The average Philadelphian does not know, or knows very little about the facts of a particular case.

If you said, "This man committed murder, he has only been in prison 10 years or 11 years; do you think his sentence should be commuted?" I would say invariably the answer would be "no."

If you gave them all the facts in a case, then I think you might get a more balanced viewpoint on it. But I don't think you could do it by conducting a poll of the community as to what their feelings are, particularly in large urban centers. I just don't think this would be practical.

Q I don't know whether this was brought out or not, but do you perchance know what the percentage of repeat violations is on those who have been commuted?

A No I do not. I don't know whether the Attorney General has any knowledge of that at all.

ATTORNEY GENERAL McBRIDE: I am sorry, I did not hear it.

CHAIRMAN TOMPKINS: The percentage of repeaters among those who have been commuted or paroled.

ATTORNEY GENERAL McBRIDE: We will present that to the Board. I can say definitely now that the percentage of repeaters among persons commuted by the Board is lower than for all other release procedures, and the very lowest of all in the entire category of persons released are life imprisonment releases.

Men released from life imprisonment very rarely—it is almost unknown that they get into trouble. There may be 2 or 3.

CHAIRMAN TOMPKINS: Well, you have some data on that, General?

ATTORNEY GENERAL McBRIDE: Yes. There may be actually 2 or 3 in the entire history of the Commonwealth who have again committed murder, after having been released from life imprisonment, but they are the lowest group of all.

CHAIRMAN TOMPKINS: That is all I have.

BY REPRESENTATIVE BELL:

Q I have one additional question. In the Devito case, we have heard testimony this morning about the wife being in such dire financial straits. I am going to ask you the question I asked General McBride yesterday: Why did not the Board remit the fine of $1500?

A I will have to answer the same way he did: It was not requested by Counsel.

Q I have the original application for clemency and I am unable to ascertain from examining that what he was asking for. Could you state what counsel asked for?

A Well, he has a check mark—as you will note here, the 3 recommendations have been scratched out—but beside "commute my maximum sentence" there is a check mark. So I would assume that is what they are asking for.

Q That does not apply to the fine?

A Not necessarily, no.

Q But the Board, of its own motion, could have commuted the fine?

A I suppose we could have.

REPRESENTATIVE BELL: That is all.

BY MR. KOHN:

Q Isn't it a fact, Mr. Finnegan, that the original application was for a pardon?

A That is right.

Q So the question of his financial strait was not very much of essence in that case so far as the original application?

A There was some confusion in the minds of the Board Members as to whether on a flat sentence a pardon would be the effective way of having him released.

Q That is right, that problem came up. But what I am driving at is: The fact that his wife was or was not in dire financial need or his 18 year old daughter and seventeen year old daughter were not working and they were in dire financial need, did not enter into the picture as far as the original application was concerned because that was for a pardon or a wiping out of his record?

A Well he had no previous record.

Q I mean, wiping out of this record, of course.

A Well, I would hesitate to testify on that since I did not sit on that case.

Q All right. Just one other thing, then. This is a matter of asking your opinion on what you think about these things. It has nothing to do with any particular case. You have been going through some of these files up in the Board of Pardons.

Do you agree that there should be some sort of chronological list set up so that a person can look at it and find out when an application was filed, when it was heard, and what was done with it?

You have gone through the files I think as well as I have. At the present times there is only one way you can correlate anything and that is to sit down and take each piece of paper and put a date on it and try to find out what happened. Do you agree with that?

A That is why I suggest, to improve Pardons Board procedure, that we be given this additional help. As Counsel has stated here, there should be a cardex system which would give what letters were received, what newspaper articles are on file, and so forth. All of the pertinent data in that file should be on a cardex so that anybody going to a card would immediately know exactly what is in the file.

Q The way the system has worked, an application may be filed in December and listed for January, and no action taken on it. You cannot tell. I mean there is nothing marked in the file except that there is no commutation. Then the rehearing is granted and it is stamped again 3 or 4 times after that on rehearings, and you cannot tell what the Board considered at any particular time. Isn't that right?

A I would say you are absolutely right.

Q I am not criticizing—

A I would say you were absolutely right, and I think the procedure that has been used for some years has been obsolete and there ought to be a better method of having easily and readily ascertainable what is in the file.

Q A great deal of work has to be done, because Mr. Hean has to sit down after the Board meets, and write out the commutation paper itself; and then that is passed around and signed, is that correct?

A That is right.

Q Then sometimes those are corrected?

A Yes.

Q After they are corrected they are sent to the Governor and he signs them, is that correct?

A That is correct.

Q That procedure has to be done all over again under the present set up, isn't that true?

A That is true.

Q And that takes a great deal of time.

A It does.

Q Each one has to be dated, and the Governor won't sign now, as I understand it, unless they are dated the particular day he is ready for them.

A That is right.

Q That means there is a great deal of time between the time the commutations are prepared, passed around, and then the Governor signs them; and then they have to start that procedure all over again. By that time you have another meeting, isn't that correct?

A That is correct.

Q That would require a great deal more help.

A That is right.

BY CHAIRMAN TOMPKINS:

Q I believe you had scheduled or the Attorney General had scheduled taking Members of the Pardons Board on visitations to various prisons. Have you made that visit yet?

A No we have not.

Q Do you think while making that visit it might be a good thing to discuss with the wardens of the institutions you visit to sort of spread word among the men that they don't benefit themselves by reason of having a person of any particular political party.

A I think that would be highly desirable.

Q We are not trying to deny them representation, but they have gotten the notion that if there is a Democratic Board and they have a Democrat represent them or if there is a Republican Board and they have a Republican represent them they would get better consideration than they would otherwise.

A I think that would be highly desirable.

BY MR. KOHN:

Q When you said this client went from O'Leary to me, you were not inferring that I would have any political influence?

A No.

Q That was facetious?

A He may have thought that you had political influence with the previous Board.

Q I never appeared before a previous Board.

MR. KOHN: We have nothing further.

CHAIRMAN TOMPKINS: I believe that is all, Mr. Finnegan.

THE WITNESS: Would I be permitted to make one comment on the Mollica case? It has received a great deal of publicity and I think some of the general public are perhaps unaware of the reasons the Members of the Pardons Board used in commuting that sentence. If you recall, they were the 4 lads who went in to hold up a card game and during the course of it one of them returned to the room and another one shot him. They were given life sentences. The sentences of the

two accomplices were commuted by the previous Board. On one of them, the Maleno boy, the previous Pardons Board said this was no more than armed robbery and that consequently he had served enough time.

The sentence of the second one was commuted and the reasoning of the previous Board was that this was no more than second-degree murder.

We took that into very serious consideration before we released Mollica. Mollica had then done about 12 years. We are using solely the decisions of the previous Board, of course he was entitled to release after serving more than the second-degree murder sentence minimum.

BY MR. KOHN:

Q Do you think it is fair to us the reasoning of a previous Board?

A I think it should be taken into consideration, particularly when there are accomplices.

Q I am not arguing the merits of that. I am just asking you whether you think that.

A Yes indeed.

Q It should be taken into consideration?

A Yes indeed I do. I think it gives you a guide as to the thinking.

Q Actually the previous Board was wrong.

A Well, that is your opinion.

Q Well I mean, that is my opinion, but if you are going to base something on it, shouldn't you have heard that particular case and go into it and discover all the facts? There were two 16 and 17 year old boys.

A It had been the practice of this Pardons Board, while I sat on it, to investigate the commutation of the sentences of accomplices, and I think it is a worthwhile thing to do. I mean, after all, there is such a thing as equal justice.

Q Under the same set of facts?

A That is right.

Q And in this particular case Mollica was the one that wielded the gun.

A That is right.

Q I think he was 23 years old. Mollica had a previous record.

A So did the others.

Q No they didn't.

A Juvenile records.

Q No.

A Well, I disagree with you.

Q Under this particular case the Parole Board said he had a reputation of being a violent individual with no concept of human life.

A I disagree with you, Mr. Kohn. I don't want to say you are doing this deliberately.

Q I am not.

A This was the reputation of the applicant which is taken at the time he enters jail. The prison board reports said that he had conducted himself in a manner befitting his return to society.

Q What I am pointing out to you is that under date of 8-17-55 this same application was denied on the basis of the Parole Board Report. Now we come along just a year later—it had been turned down July 29, 1955—now we come along within a year and the Board changes—

A Well, the prison report changed too, did it not?

Q I think it did. You are right.

A Well, that was the basis. They turned it down because the man at that time, in the opinion of the prison authorities, was not ready to be released. They thought he should do more time.

When the prison report was sent to us and we were judging the merits of the case, they had changed their mind and felt that he was fit to be released to society.

Q What I am getting at is: You say that you allowed him to be released because the previous Board had commuted his accomplices. Now you give a different reason for it.

A No.

Q That is, that he is ready to go out into society.

A Well, that is right. But, I say, you take into consideration also the reasoning of the previous Board, and the reasons given by the previous Board were, in one case, that this was no more than armed robbery, and in the second degree, it was certainly no more than second degree murder.

I think we would be remiss in our duties if we did not take into consideration what happened to the accomplices of people before us for commutation of sentence.

Q Do you think it is a good practice, Mr. Finnegan, for the Pardons Board to deny an attorney, who makes an application, the right of a rehearing—I mean on the record as was denied in this case—I am talking as a practical matter—and isn't it a fact that these are the things that lend themselves to the inference that there might have been something involved, when an attorney who made the application was told that it could not be heard for a year, because a rehearing would not be granted, and then someone else comes along, without the knowledge of the attorney, and obtains the very same thing that the attorney asked for?

A I think that is wrong; but I think this—

Q Well, all right—

A Just a second. Let me explain that. If you are referring to the Mollica case, the attorney did not submit any new evidence.

Q Well, now, neither did Mr. Barrett except after Mr. Hean asked him to submit new evidence.

Did you ask Mr. DiBona to submit any new evidence? (Addressing Mr. Hean.)

He did not. You see, that is the point I am driving at.

A I don't know. When he said that the case was turned down, I think in that answer you will find that the Board will not permit rehearings unless new evidence is presented to the Board warranting those hearings. I think he said that to Mr. DiBona.

Q They told him he could not have a rehearing until a year was up. But then when Mr. Barrett brought a letter in—

A No, wait a minute, now. He said he will not be permitted a hearing for a year unless new evidence is submitted warranting a rehearing. That is the usual—

Q I won't argue the facts. What Mr. Hean said to him was that inasmuch as the application had been heard in November, it could not be heard until November of 1955, I think, and then the attorney was told he could not have a special hearing or anything else. Then Mr. Barrett writes in and Mr. Hean writes back and says—he didn't do this to Mr. DiBona—he writes back and says,

"We can't give you a rehearing on this case until you submit new evidence."

A Actually both of us are wrong. We are arguing about rehearings when it was a special listing.

Q I have not been able to distinguish—

A Well, I think a special listing is never granted within a two month period. In other words we don't grant a special listing—

Q Well, as a practical matter, aren't these things that give rise to the allegation of political influence and things like that?

A They give rise to it but I think they are without foundation when you get into the facts.

MR. KOHN: I have no other question.

CHAIRMAN TOMPKINS: General, do you have any questions.

ATTORNEY GENERAL McBRIDE: No I don't think I have any more.

CHAIRMAN TOMPKINS: Very well, we will take a recess for one hour for lunch.

(At 12:30 p. m., the hearing was recessed until 1:30 p. m.)

* * * * *

AFTERNOON SESSION

April 4, 1957

COMMITTEE MEMBERS present were:

Chairman Tompkins

Representative Bell

Representative Lopresti

Senator Fleming

Senator Scott

Senator Yosko

CHAIRMAN TOMPKINS: You may proceed.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I think it would be of great interest to the committee and all others, if I were to read, for the edification of all of us, Volume 28 of Purdon's, Section 330, and I read it in fairness. It reads as follows:

"No person engaged on, connected with, or employed by any newspaper of general circulation, as defined by the laws of this Commonwealth, or any press association for the purpose of gathering, procuring, compiling, editing or publishing news, shall be required to disclose the source of any information procured or obtained by such person in any legal proceding, trial, or investigation, before any court, Grand Jury, traverse or petit jury, or any officer thereof, before the General Assembly or any committee thereof, before any commission, department or bureau of this Commonwealth, or before any county or municipal body, officer or committee thereof."

It was the Act of June 25, 1937, P. L. 2123, being No. 433, Section 1.

CHAIRMAN TOMPKINS: What was that P. L. number?

ATTORNEY GENERAL McBRIDE: It is Purdon's Statute 28, Section 330.

CHAIRMAN TOMPKINS: The P. L. reference to the Act of 1937?

ATTORNEY GENERAL McBRIDE: The Act of 1937 was P. L. 2123. It would be in the second Volume of the Act of 1937.

REPRESENTATIVE LOPRESTI: I appreciate your reading that, but I would like to have it read a little more slowly so that the reporters themselves might understand the extent to which the immunity is granted, so that some day in the future they might not get themselves into a little bit of difficulty over that particular Act of Assembly.

ATTORNEY GENERAL McBRIDE: If you would like to read it—(Offering book)

SENATOR SCOTT: It is pretty far reaching the way I interpreted it.

REPRESENTATIVE LOPRESTI: I mean the immunity itself, what it is immunity from.

SENATOR SCOTT: What he is immune from.

REPRESENTATIVE LOPRESTI: That is right.

SENATOR SCOTT: Well, let's hear what he is immune from.

ATTORNEY GENERAL McBRIDE: "No person engaged on, connected with, or employed by any newspaper of general circulation, as defined by the laws of this Commonwealth, or any press association for the purpose of gathering, procuring, compiling, editing or publishing news, shall be required to disclose the source of any information procured or obtained by such person"—

REPRESENTATIVE LOPRESTI: So it is the source that he is immune from. The immunity extends only to the source of his information. You may ask him other questions concerning the story or the information he has; for example whether it was by telephone, you might ask him, or whether it was by wire or private conversation.

ATTORNEY GENERAL McBRIDE: Or what the information is.

REPRESENTATIVE LOPRESTI: Or what the information is, but not the source.

ATTORNEY GENERAL McBRIDE: In any event, I thought the committee in fairness would like to have that called to its attention.

CHAIRMAN TOMPKINS: Are you finished?

MR. KOHN: We finished with Secretary Finnegan this morning, unless there is any further interrogation the General has of him.

ATTORNEY GENERAL McBRIDE: No I have no further questions.

CHAIRMAN TOMPKINS: All right, shall we proceed?

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I would like to make this statement to the Board. Francis Lord, who was counsel in the DeVito case, has been here on four separate occasions and was prepared to testify, but due to circumstances beyond the committee's control, and ours, he was not heard. He called me the first thing this morning and said the press of legal business in his own county prevented him from being here today.

I would simply like to say to the committee that we would like to have him heard later at such time as is convenient.

MR. KOHN: May Mr. McBride and I come up there and consult with you and Senator Yosko in regard to some other work we have, so that we know how we are going to proceed?

(Discussion off the record)

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I would like to hand up to you copies of the memorandum I told you we had from the Department of Justice containing the copies of the various Constitutions of the States of the United States in connection with the question of executive clemency.

CHAIRMAN TOMPKINS: Yes, we are very happy to have them.

ATTORNEY GENERAL McBRIDE: Here are six copies.

REPRESENTATIVE BELL: A little background: Am I correct that many States copy their Constitutions from Pennsylvania?

ATTORNEY GENERAL McBRIDE: Originally they did. We started in 1776.

REPRESENTATIVE BELL: Our type of Constitution is pretty well spread throught the United States. I ran into that in other matters.

ATTORNEY GENERAL McBRIDE: Yes.

REPRESENTATIVE BELL: But, of course, our new Constitution would not have been copied.

VICTOR H. WRIGHT, Recalled on

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Wright, will you continue with the cases that you had been reviewing before?

A I have the file of Charles Dilks, No. A-679, February Session 1951. Dilks, in his application, states that he was convicted of burglary, larceny, receiving stolen goods, operating motor vehicle without owner's consent.

In Philadelphia on July 14, 1950 he pleaded guilty, began serving his sentence June 12, 1950, a sentence of 4 to 8 years.

Incidentally, it is an application for commutation of sentence. In the file I find the following letter:

"Furey Ellis
"Republican State Committee of Pennsylvania
"Italian Division
"708 Widener Building
"Philadelphia 7, Pa.
"Rittenhouse 6-4949
"February 9, 1951."

Stamped with a mail receiving stamp "Received February 10, Charles J. Margiotti." The letter is addressed to:

"Hon. Charles J. Margiotti
"720 Grant Building
"Pittsburgh 19, Pa.

"My dear Charlie:

"I am enclosing copy of a letter which I received from my good friend Arthur M. Williams, regarding Charles Dilks, whose case comes up for a pardon on Saturday, February 10. I shall deeply appreciate anything that you can do to help this youngster.

"With warmest personal regards and good wishes, my dear Charlie, I am,

"Yours sincerely,

"Furey Ellis, Chairman."

This is the letter which he enclosed, I presume. It is a copy of it. (Indicating letter)

Q Is that the only correspondence in that file to which you wish to call attention?

A Yes. There is other correspondence from counsel, Bell Telephone Company of Pennsylvania, which appears to have been the original private prosecutor in the case, saying it has no objection; someone offering employment in a bakery.

Q But I am talking about letters that have any possible political connotation.

A That is right; that is the only one.

ATTORNEY GENERAL McBRIDE: Do you wish to examine on that case, Mr. Kohn? Or shall we go through some of these speedily?

REPRESENTATIVE LOPRESTI: Mr. McBride, at this point I would like to know whether or not the letter that was enclosed may be read to the committee. Does it contain anything that—

THE WITNESS: It is on the letterhead of Arthur M. Williams, 21 South Twelfth Street, Philadelphia 7, Pa., February 7, 1951.

"Mr. Furey Ellis
"Furey Ellis, Inc.
"708 Widner Building
"Philadelphia 7, Pa.

"Dear Furey:

"I am interested in doing all I can to obtain a pardon for Charles Dilks who lived at 1907 S. Iseminger Street, Philadelphia.

"He is only 19 years of age and was caught robbing a coin box telephone with two other boys on June 4, 1950 and later sentenced by Judge Parry on July 14, 1950 to serve a sentence of from four to eight years in the Eastern Penitentiary.

"His employer feels that this lad got involved with bad company and has stated that he is willing and anxious to reinstate him in his former occupation.

"In view of the circumstances, I feel that his punishment has been sufficient.

"Cordially,

"A. M. Williams."

BY MR. KOHN:

Q Did you read the commutation, Mr. Wright?

A No.

MR. KOHN: I would like to read part of the commutation into the record, if I may, please.

". . . the Board of Pardons is of the opinion that a person of these years is more apt to be rehabilitated if granted commutation after a mild sentence than by seeking the last ounce of punishment.

"We realize the length of time which he has presently served is not sufficient to impress upon the applicant the need of continued good conduct. We are, therefore, recommending that this applicant serve a minimum of one year, and we are recommending that his minimum sentence be commuted as of June 12, 1951."

ATTORNEY GENERAL McBRIDE: That is one year out of a minimum of 4.

MR. KOHN: Two.

THE WITNESS: Four. His sentence originally was 4 to 8 years.

MR. KOHN: You are right.

THE WITNESS: I have now the file of James Joseph Nemeth, No. 9072, and originally written on the application was "January Session, 1953." It is scratched through. Above that is "April, 1953." That is scratched through. Above is "October, 1953."

This applicant was charged with armed robbery and burglary, convicted in Beaver County on May 8, 1943; began serving his sentence on April 18, 1943 a sentence of 10 to 20 years and 5 to 10 years concurrent. In this folder I find the following correspondence. There is a letter on the letterhead of Thomas P. Geer, 406 Jones Law Annex, Pittsburgh 19, Pa., House of Representatives, Harrisburg, Pa., dated May 29, 1953 and stamped received by the Board of Pardons June 1, 1953.

"Board of Pardons
"Department of Justice
"Commonwealth of Pennsylvania
"Harrisburg, Pennsylvania
"Attention Joseph Nissley, Secretary
"Re: James Joseph Nemeth
"No. 53 January Sessions

"Dear Mr. Nissley:

"I herewith make application for re-argument of the case of James Joseph Nemeth for the following reasons:

"1. Our first refusal on this petition was based on the prison riots and our case was not actually ever heard.

"2. Our subsequent hearing was a jam-packed Session with an overload of cases resulting from prison riot delays. There were Members of the Board who did not hear one word I said and none of them concentrated on my case.

"3. If there is any reason whatsoever to grant a pardon in the Commonwealth of Pennsylvania, then James Joseph Nemeth is entitled to a pardon.

"Please notify me whether or not my request for a re-arugment will be granted.

"Very truly yours,

"Thomas P. Geer, Attorney for James Joseph Nemeth."

His application, incidentally, states that Geer is his representative.

BY ATTORNEY GENERAL McBRIDE:

Q. Now, Geer being a lawyer, is there any reason you know of why that letter was not written on his legal stationery?

A. I would know of none.

Q. It was written on his official stationery?

A. House of Representatives.

If it is all right with the committee, the reply to that letter by Nissley simply states that they will take it under advisement and advise him when they decide.

Q. Did they decide?

A. I will have to go through this group, first, before we can reach that.

Then there is the round robin form which was sent to the Members of the Board asking their opinions as to whether or not the reargument should be granted. There were 3 votes opposed, one vote for.

Then on June 19, Nissley wrote to Mr. Geer and told him that the reargument had been denied.

On August 19, 1953, the same stationery, that is, that of the House of Representatives, Mr. Geer addressed

"Hon. Gene D. Smith
"Capitol Building
"Harrisburg, Pennsylvania
"Re: James Joseph Nemeth

"Dear Mr. Smith:

"You will undoubtedly recall my conversation with you in regards to the above named case. This case originally came up in the aftermath of the prison riots. It was refused in January because of the prison riots and actually was not heard at all. A reargument was held in April and it was a great shock and surprise when I found the case had not been decided in favor of my client. Thereafter, I requested a reargument and was refused on June 19, 1953. In our conversation you stated that you would give me reconsideration for a reargument in the Fall Hearings. That is my request by this letter.

"Yours truly,

"Tom."

With copies to Hon. Robert E. Woodside, Hon. Lloyd Wood. Written in pencil is the word "reargument."

BY CHAIRMAN TOMPKINS:

Q. Was Mr. Geer also counsel for the applicant?

A. Yes. He is corresponding with the Board, though, on the letterhead he uses as a Member of the House of Representatives.

The next bit of correspondence, chronologically speaking, is on the letterhead of the Commonwealth of Pennsylvania, Department of State, Harrisburg, the Secretary of the Commonwealth.

"Mr. Joseph Nissley, Secretary,
"Board of Pardons,
"Harrisburg, Pa.

"Dear Sir:

"I am transmitting herewith letter of August 19th, addressed to me by Thomas P. Geer, who represents James Joseph Nemeth.

"Kindly consider this letter as a request for reargument and prepare round-robin for Board action.

"Cordially yours,

"Gene D. Smith, Secretary of the Commonwealth."

Then there is a letter which I may summarize, with the committee's permission, from Mr. Nissley to Mr. Geer, on August 25, 1953, advising him that the matter is being considered by the Board.

The same date, August 25, there is another round-robin to the committee. In the column headed "Those favoring" reargument, appear four sets of initials; under the column "Those opposing" no initials.

On September 11, 1953 Nissley advised Mr. Geer by letter that reargument has been granted and that the case will be listed for hearing at the October Session.

BY ATTORNEY GENERAL McBRIDE:

Q. Was the case heard?

A. Yes it was.
Q. Was executive clemency granted?
A. It was.
ATTORNEY GENERAL McBRIDE: Cross-examination.

BY MR. KOHN:

Q. In the granting of the commutation it states "at the present time this applicant has served 10½ years of an 11 year combined minimum sentence," does it not?
A. Yes.

BY ATTORNEY GENERAL McBRIDE:

Q. The next case.
A. The case of Horace Murray, No. A-291, April Session 1950, petitioning for a pardon.

He was convicted of involuntary manslaughter and leaving the scene of an accident, in Beaver County, on November 18, 1949; sentenced to pay costs, fine of $1.00, serve 1 year in Beaver County jail, on one bill; on the other bill, to pay costs, fine of $1.00, serve 1 year in Beaver County jail from expiration of the previous sentence.

BY MR. KOHN:

Q. What was the first sentence?
A. One year; in other words two years total is what he was given.

In this file is a letter on the stationery of the Senate of Pennsylvania, the Forty-second District, Theodore H. Doehla, 3667 Perrysville Avenue, Pittsburgh 14, Pa., dated March 11, 1950.

BY CHAIRMAN TOMPKINS:

Q. What was that last name?
A. I pronounce it Doehla. It is D-o-e-h-l-a. I think that is Forty-second; it is XLII. My Roman arithmetic is not what it used to be.

"Honorable Members
"Board of Pardons

"My attention has been called in regards to Horace Murray No. 903 of 5 Flocker Way, Pittsburgh, Pa., about his release from the Beaver County jail.

"Reverend Grover Swoyer, who is a personal friend of mine, is very much interested in this man and his family; his son Donald is a member of his church, Trinity Lutheran. From what information I can get I feel if Horace Murray could be released, he would make a good citizen. Also it is my understanding that he has employment waiting for him on his release.

"Any consideration you can give Horace Murray will be appreciated by the writer.

"Sincerely yours,

"Theodore H. Doehla."

BY MR. KOHN:

Q. Do you know what determined why this man was granted a commutation?
A. No. Was that not a pardon he was asking?
Q. I don't know. They say here "recommend commutation after six months." Isn't that correct.
A. Yes.
Q. He probably did ask for a pardon and got a commutation. He applied for a pardon and got a commutation.
A Right. A compromise verdict.
Q Pay the costs.
MR. KOHN: I have no other questions.

BY ATTORNEY GENERAL McBRIDE:

Q The next case, Mr. Wright.
A. John Joseph McGettigan, No. 9073, December Session, 1954, application for commutation of maximum sentence, from a sentence of 10 to 20 years in Eastern State Penitentiary, for the crime of armed robbery; convicted in Philadelphia, June 9, 1941; commenced serving his sentence on May 27, 1941. In the folder I find a letter as follows:

"Southeast Republican Club
"Forty-third Ward
"1109 West Allegheny Avenue
"Philadelphia, Pa.
"November 2, 1953

"To whom it may concern:

"Mr. John McGettigan has been an acquaintance of mine for the past 3 years and during that time I have come to regard him as a hard working man who is anxious to gain for himself a position of trust and respect in the community.

"He is employed at the present time as a foreman and his employers seem to place great confidence in him in so far as the operation of their business is concerned.

"It is my opinion that he has rehabilitated himself to a degree where he may now be considered an honorable and upstanding citizen, and I am bringing the above to your attention in the hope that you may give favorable consideration to his application for a relief of his parole.

"Respectfully yours,

"Clement J. Ziegler,
"Member, Central Campaign Committee."

Q. Was he given favorable consideration?
A. Yes.
MR. KOHN: Are you finished?
ATTORNEY GENERAL McBRIDE: Go ahead.

BY MR. KOHN:

Q. "Since this applicant served 10 years and has been on parole 3½ years, we feel he has been sufficiently punished and in view of his good rehabilitation, we recommend that his sentence be commuted"—is that in the commutation recommendation, Mr. Wright?
A. That is correct.

Q. So that he had been out 3½ years and been on good behavior, and what he was asking was a commutation of his maximum, is that correct?
A. Yes.

BY ATTORNEY GENERAL McBRIDE:

Q. The next case.
A. The case of Donald Nathan Neidig, No. A-1579, September Session 1952, an application to commute my sentence. He was sentenced to 3 to 6 years for the crime of burglary, in Northumberland County, on January 15,

1951; commenced serving sentence December 18, 1950. In the file of this case there are the following letters.

On the letterhead of the Senate of Pennsylvania the Twenty-seventh District, Samuel B. Wolfe, Lewisburg, Pa., July 30, 1952.

"State Pardon Board
"Harrisburg, Penna.

"Gentlemen:

"Mr. Donald N . Neidig, of Sunbury, now serving in the Northumberland County jail, will make application to your Board in September for a pardon.

"I am personally acquainted with the Neidig family, and know them to be an outstanding and upright family, but it seems that Donald got off on the wrong foot, and is quite repentant.

"He served in the World War and holds an honorable discharge, he is the father of two small children, I believe that he has fully paid the penalty for his offense, and for these reasons I am recommending favorable consideration of his petition when it is presented to you.

"Mr. Paul L. Dunigan, a former warden at the jail, informs me that Donald has been a model prisoner, and is sponsoring Donald for this pardon.

"I sincerely trust that you may grant a pardon to Mr. Neidig so that he can return to his family and be of service to them.

"Thanking you, and with kind regards

"Very sincerely,

"Samuel B. Wolfe."

Q. Did that turn out to his expectation?
A. Yes.

Now there are three letters also, each on the stationery of the Office of County Commissioners of Northumberland County, Sunbury, Pennsylvania—Doctor George A. Deitrick, John U. Shroyer, George F. Perles, the Commissioners and Clerks listed on the other side. The three letters are of virtually identical content, if not exactly the same, each from George F. Perles, John U. Shroyer, and Doctor George A. Deitrick.

They read as follows:

"Mr. Joseph Nissley
"Secretary of the Board of Pardons
"Harrisburg, Pennsylvania

"Gentlemen":—as a matter of fact, while I am reading this one, if you want to check the others, so that we won't have to read all three.

CHAIRMAN TOMPKINS: Let's not read them if the letters are the same. It will make too big a record here.

THE WITNESS: "Gentlemen: I am writing this letter in behalf of Donald Nathan Neidig of Sunbury, Pennsylvania, who is at present a prisoner of Northumberland County prison.

"I have had an opportunity to observe Neidig's conduct since the beginning of January 1952. He has acted as assistant janitor in the courthouse building of Northumberland County.

"He is a willing worker and cheerfully complies with orders given to him. I have found that he performs his duties in a very thorough manner.

"I believe that he sincerely regrets his misdeed and is now ready to take his place in society. I recommend that he be released as soon as it may be possible.

"Very truly yours,

"Doctor George A. Deitrick."

MR. KOHN: They are correct, the three of them from the three County Commissioners named in Northumberland County.

THE WITNESS: Right.

MR. KOHN: Very likely they were dictated by the same person.

THE WITNESS: Probably. The next case is that of John Kaminsky, No. A-1863, June Session 1954, applying for a pardon for the crime of setting up an illegal lottery. Apparently there were two bills. On one he was fined $50; on the other he received a suspended sentence. This occurred in Philadelphia.

He was sentenced on—well, I can't quite tell—apparently on one of them, November 15, 1954 and on the other one, June 20, 1951. The pardon was granted.

In the folder appears a piece of paper with this penciled note on it:

"Note, calendar, Tuesday, April 21, '53. Hold for Dave Walker. Refused in May '53, approved June 1954."

BY SENATOR FLEMING:

Q. Is that note signed, sir?
A No it is just a penciled note.

BY ATTORNEY GENERAL McBRIDE:

Q Do you know in whose handwriting it is?
A No I don't. It was in the folder when the folder was withdrawn from the files.
Q Who was the Secretary of the Board at the time of that case?
A It would have been Mr. Nissley.

BY MR. KOHN:

Q Is it a man's handwriting or a woman's?
A I am not a handwriting analyist.
Q This was for pardon, was it not, Mr. Wright?
A Yes.

BY ATTORNEY GENERAL McBRIDE:

Q And who was Mr. Walker?
A I have been informed that he was Secretary of Labor and Industry at that time.

SENATOR FLEMING: Wait, Mr. Chairman—well, I guess it is all right to go in—but there is nothing there to say it is the Secretary, is there?

THE WITNESS: Here is the whole thing right here.

ATTORNEY GENERAL McBRIDE: We thought perhaps the committee might want to call the former Secretary to explain how it got in there.

MR. KOHN: You can call him. It is your case.

ATTORNEY GENERAL McBRIDE: I have no objection to calling him. The Secretary of the present Board was called to explain such matters. I thought perhaps you would want to call the Secretary.

MR. KOHN: It is your case. I will have him here. You can ask him.

ATTORNEY GENERAL McBRIDE: I will be delighted to ask him. If there is a proper explanation, all right. I would welcome bringing it out. I have no purpose of insinuating that there was anything wrong about Mr. Walker or Mr. Nissley.

CHAIRMAN TOMPKINS: Mr. Nissley will be before this committee next week or when we reach certain cases that Senator Yosko is interested in. So, if you care to inquire of Mr. Nissley at that time—

REPRESENTATIVE BELL: In the meantime, Mr. Chairman, I don't think any of us want meanings imputed to a note like this that are not on its face. As far as Mr. Walker, there are probably a lot of Walkers in Harrisburg.

ATTORNEY GENERAL McBRIDE: I think I have said almost as many times as I possibly could: I am not suggesting that there was anything wrong with the Republican Board of Pardons because they have letters in their files from Republican politicians or anything like that.

CHAIRMAN TOMPKINS: The point at issue here is that the man's name is included in a note, the note is not signed, and to imply that because the then Secretary of Labor and Industry's name happened to be Walker, that this note was referring to him, I thing is unfair.

SENATOR FLEMING: That was my point, Mr. Chairman. Where they came on letterheads, there is no question they are proper and should be in.

For instance, I know a Dave Walker back home who had a political job. This could just as easily be that Dave Walker as it could be the Dave Walker who served as the Secretary of Labor down here.

ATTORNEY GENERAL McBRIDE: Senator, I could not possibly agree with you more, and that is why I say undoubtedly the committee will want to hear from Mr. Nissley as to which Dave Walker it was.

SENATOR FLEMING: Where it is not on a letterhead and is not signed by somebody, any note might be placed in there. I am not intimating it was placed in, I will only go this far, to say it definitely could have been another Dave Walker.

ATTORNEY GENERAL McBRIDE: Can I join you in saying precisely that? That is why I say all of us should withhold any judgment until we find out who it was, who wrote the note. But there it is in the record.

BY SENATOR YOSKO:

Q Mr. Wright, did you positively say that it was the David Walker who was the Secretary of Labor and Industry?

A Oh, I wouldn't know.

MR. KOHN: What would be the inference in asking him such a question?

SENATOR YOSKO: I don't know, but I am trying to find out—

MR. KOHN: He did not positively say that—

SENATOR YOSKO: —how the identification came out here. How did it come out?

THE WITNESS: I was asked who Dave Walker was.

BY SENATOR YOSKO:

Q What was your answer?

A I replied that I had been informed that there was one David Walker who at the time in question—

Q What I am saying is that you did not positively say that it was he?

A There would be no way.

Q You only told us what you were informed?

A Right.

BY CHAIRMAN TOMPKINS:

Q Who informed you?

A I don't know. Someone said to me, someone with whom I have been working, "That must have been Dave Walker, the Secretary of Labor."

BY MR. KOHN:

Q Who was that person?

A I don't remember. I can't honestly tell you.

BY REPRESENTATIVE BELL:

Q What was the year of this matter?

A The year of the application is June 1954.

REPRESENTATIVE BELL: Mr. Chairman, I happen to have a Pennsylvania Manual for '54 in my possession and listed in the index are one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve Walkers.

CHAIRMAN TOMPKINS: How many Dave Walkers?

REPRESENTATIVE BELL: The note did not refer to a Dave Walker.

ATTORNEY GENERAL McBRIDE: Yes it does.

REPRESENTATIVE BELL: Does the note read "Dave Walker?"

MR. KOHN: Yes sir it does; Dave Walker. It says: "Note, calendar, Tuesday April 21, 1953, hold for Dave Walker. Refused May '53, approved June 1954."

BY ATTORNEY GENERAL McBRIDE:

Q Is this a Philadelphia case?

A Yes.

Q And the David Walker who was the Secretary, where was he from? Philadelphia?

A I don't know.

BY MR. KOHN:

Q Didn't your informant tell you that?

A No.

Q What made the informant volunteer this information to you, at this particular time?

A We were discussing the cases, and one of the persons with whom I discussed the cases observed that a Dave Walker had been Secretary of Labor and Industry.

Q How many persons were you working with?

A Oh, I don't know; I have been working with—

Q I mean on these cases?

A There have been four, eight, nine—at least nine besides myself.

Q On the files upstairs?

A Yes. Nine people did not work on the files. I have been working, obviously with the Board of Pardons—

Q It might have been one of them?

A Yes.

MR. KOHN: That is all.

SENATOR FLEMING: I think it is grossly unfair, where a man's name appears on a note, to have it go into the record.

ATTORNEY GENERAL McBRIDE: That is why I sug-

gest we suspend judgment until we find out what Mr. Nissley has to say about it, or possibly—

CHAIRMAN TOMPKINS: I think it is wrong to identify him without getting further information.

ATTORNEY GENERAL McBRIDE: I did not notice such reticence when we were talking about Democrats.

CHAIRMAN TOMPKINS: We had no such note as this, however.

ATTORNEY GENERAL McBRIDE: We had letters referring to people and we didn't know who they were, and so forth. I didn't notice that anybody was so anxious to protect them—

SENATOR FLEMING: General, this is the first time I have protested since the hearing has been going on.

ATTORNEY GENERAL McBRIDE: I must say, Senator, I agree with your protest.

REPRESENTATIVE BELL: Weren't all Democrats subsequently identified by the Secretary?

ATTORNEY GENERAL McBRIDE: I am hoping this will be subsequently identified.

CHAIRMAN TOMPKINS: I don't think this should be identified as the former Secretary of Labor and Industry until such time as we have further confirmation of it. Proceed.

BY ATTORNEY GENERAL McBRIDE:

Q The next case.

A The case of Stanley Curry, Jr., No. A-2284, January Session, 1954, scratched through and above it, March 1954. The application is for commutation of sentence, which was 10 to 20 years, and $100 fine, for armed robbery committed in Delaware County, sentenced on May 21, 1952. He started serving his sentence, according to his application, on April 16, 1952. In the file of this case is the following letter:

Letterhead of Pennsylvania, Office of the Secretary of the Commonwealth, Harrisburg, Gene D. Smith, Secretary of the Commonwealth.

"Mr. Victor Lozinak, Chairman
"Retail Liquor Licensees Ass'n.,
"7020 W. Garrett Road
"Upper Darby, Pa.

"Dear Victor:

"Please be advised that the Stanley Curry case, which was scheduled to be heard by the Board of Pardons on Tuesday, January 19, 1954, was continued until the March hearing. I am retaining your letter in my files, pending that hearing.

"With kindest personal regards, I am

"Very sincerely yours,

"Gene D. Smith,
"Secretary of the Commonwealth."

A search of the files of the Secretary of the Commonwealth, the correspondence files of the Secretary of the Commonwealth, was requested by myself and a negative report was returned to me. No letter from Mr. Lozinak to Mr. Smith was found.

Q Was that application acted upon favorably?

A Yes.

ATTORNEY GENERAL McBRIDE: Anything else, Mr. Kohn?

MR. KOHN: I have no questions.

BY ATTORNEY GENERAL McBRIDE:

Q The next case.

CHAIRMAN TOMPKINS: Just a minute.

BY CHAIRMAN TOMPKINS:

Q Do you think there is anything peculiar about not being able to find the letter he referred to?

A No, I was just anticipating a possible question by a Member of the committee, or perhaps counsel, as to the letter that Mr. Smith was referring to.

CHAIRMAN TOMPKINS: Yes, we have had an awful lot of that experience during this investigation so far.

ATTORNEY GENERAL McBRIDE: What experience is that?

CHAIRMAN TOMPKINS: I said we have had an awful lot of that experience in this investigation so far where notes have referred to letters which we were unable to find in the files.

BY ATTORNEY GENERAL McBRIDE:

Q Now what was the sentence in that last case?

A Ten to twenty.

Q How soon did he get out.

A After 1 year and 9 months.

Q One year and 9 months on a 10 to 20—

A No, wait, I am sorry. I am confused here. " . . . even though this applicant has served but 1 year and 9 months, we are recommending that his sentence be commuted to 2 years."

Q A 10 to 20 sentence cut down to 2 years?

A Yes.

BY REPRESENTATIVE LOPRESTI:

Q Were there any recommendations by the judges or the district attorney in that particular case?

A There is a letter on the letterhead of the Office of the District Attorney, Delaware County, Raymond R. Start, District Attorney, dated March 12, 1954, "Joseph Nissley"—it would appear that the district attorney is making a single letter do for a number of cases which were before the Board from Delaware County that month. On this piece of paper appears the following:

"Stanley Curry, Jr. The application of Stanley Curry, Jr., should be denied because it appears, in our viewpoint, to be presented prematurely considering the nature of offense and the sentence imposed thereon."

BY ATTORNEY GENERAL McBRIDE:

Q Who was the sentencing judge?

A Judge Toal.

Q Was there any thunder from Judge Bretherick on that one?

A I haven't heard it.

CHAIRMAN TOMPKINS: There would be no occasion for any thunder from Judge Bretherick on it because he was not the sentencing judge.

ATTORNEY GENERAL McBRIDE: There was no other cases, he thundered when the Democrats turned anybody loose.

CHAIRMAN TOMPKINS: I think that remark was out of order.

REPRESENTATIVE BELL: Mr. Attorney General, was he judge then or was he a Philadelphia lawyer then?

ATTORNEY GENERAL McBRIDE: He was judge.

REPRESENTATIVE LOPRESTI: Mr. Chairman, I submit I ought to be permitted to ask another question in view of the fact that I did not get a full answer to my last question whether there was a recommendation from the judge.

THE WITNESS: There is, Mr. Lopresti. I have now found it. On the letterhead of the Court of Common pleas, 32nd Judicial District, Commonwealth of Pennsylvania, Delaware County, Media, Pa., December 28, 1953, addressed to the Board of Pardons, in re: Application of Stanley Curry, Jr.

"Gentlemen:

"I have examined the application of Stanley Curry, Jr., which was forwarded to me by your Board and find the facts stated therein essentially correct. It is my opinion that any action by your Board to commute this sentence at this time would be premature as the defendant pleaded guilty to armed robbery and the circumstances of the case were such that the court was impelled to inflict a substantial sentence.

"Very truly yours,

"William R. Toal."

BY REPRESENTATIVE LOPRESTI:

Q Mr. Wright, in this particular case, then, we do have a case where a man was commuted against the judgment of both the court and the district attorney?

A Yes.

BY ATTORNEY GENERAL McBRIDE:

Q Was there any complaint by Judge Toal about that?

A There doesn't appear to be any in the file. I have never heard of one.

Q There was no complaint before this committee on that case, was there?

A Not that I recall.

REPRESENTATIVE LOPRESTI: In fairness, I might say that Judge Toal and Judge Bretherick complained about both the Democratic and the Republican Boards.

ATTORNEY GENERAL McBRIDE: This would seem to be an outstanding case if they wanted to make any point of it.

CHAIRMAN TOMPKINS: We might have made something out of it if we had access to the files.

REPRESENTATIVE LOPRESTI: What was that, Mr. Chairman?

CHAIRMAN TOMPKINS: I say, perhaps we might have made a case out of it if we had access to the file.

ATTORNEY GENERAL McBRIDE: You had access to the files.

SENATOR YOSKO: If you didn't have access to them, you have access to them now.

MR. KOHN: We never had these cases, Senator Yosko.

ATTORNEY GENERAL McBRIDE: You didn't look for them.

CHAIRMAN TOMPKINS: You couldn't look for them.

ATTORNEY GENERAL McBRIDE: That isn't true. There is no use being too partisan about this, Mr. Chairman.

BY ATTORNEY GENERAL McBRIDE:

Q The next case, Mr. Wright.

A William Edward Snyder, No. 9181, April Session 1952, application for commutation of two sentences, 7½ to 15 years, and 2½ to 5 years, to be served consecutively, or 10 to 20 years, for rape and sodomy, Centre County, sentenced August 24, 1942; started serving sentence July 17, 1942. In the file is the following letter:

"House of Representatives, Harrisburg, Pa., Preston A. Frost, 143 Frazier Street, State College, Pa., March 30, 1950.

"The Honorable
"Pennsylvania Pardon Board
"Harrisburg, Pennsylvania

"Gentleman:

"The name of William Edward Snyder will come before your Board at its April 1950 meeting for pardon.

"This will certify that I have known this boy from childhood. Our family lived neighbor to Mr. Snyder's family for about 15 years. During these 15 years my daughters played with this boy and his sister.

"From my knowledge of William Edward Snyder, I have never been able to make myself belive that there was anything criminal in his nature.

"He is confined to our local prison and I understand he has been a model prisoner.

"His late father was a good mechanic and had a very well equipped machine shop at his residence. I understand that the boy has developed into a good machinist and is very much interested in that line of work. His mother has the means to start him in this line of work in the shop used by his father at their home. It seems to me now, while his mother is living, it would be a fine opportunity for him to get a start in life as his mother, who now lixes most of the time alone, is very anxious to have him back home and would provide a very fine home for him as well as give him guidance and help in a gainful occupation.

"I sincerely believe that your favorable consideration in the pardon of this boy is justified.

"I certify that I have no other interests in this matter other than the interest of the public, the boy's best opportunity to make a good citizen and the concern for his mother.

"Yours truly,
"P. A. Frost."

BY MR. KOHN:

Q The boy had no previous arrest, did he?

A I haven't consulted—

Q Well, the record shows none.

A I will accept your statement.

Q And this letter was dated when?

A March 30, 1950.

Q You stated the number of this case was 9181, April 1952. So he had served 9 years, 10 months of a 10 year minimum, is that right?

A Approximately.

Q Actually the Board granted him 2 months off of his minimum in this case.

A That is what the recommendation states, 4 months off.

Q He asked for 4 months but actually when he got it it was 2 months off, was it not? Look at the top part. He had served 9 years, 10 months out of 10 years.

A Yes.

Q No previous record?

A According to his application, yes.

MR. KOHN: That is all.

BY ATTORNEY GENERAL McBRIDE:

Q That is all?

A Yes.

ATTORNEY GENERAL McBRIDE: Any further examination? That is all, Mr. Wright.

CHAIRMAN TOMPKINS: I have some questions I would like to ask Mr. Wright.

BY CHAIRMAN TOMPKINS:

Q How many people were working with you going through the files, digging out this information?

A Altogether there were 4 people. I think no one of those four worked full time at it. They were in there only part time. One man was there most of the time, two of them were there most of the time.

Q Do you know how many files they went through to pick these out?

A They went through the files from—or I directed them to and I presume they did—through the files from January 1950 through December 1954.

Q A period of 4 years?

A Yes.

Q During that period of time there were about 4,000 cases heard is that right?

A I really don't know how many there were.

Q When they found these cases, what did they do?

A They segregated them and kept them, gave them to the Secretary of the Board, advised him that they wanted them kept aside; in other words, so they would not get back in the file and be dissipated again.

Q Have they been in the Secretary's possession all this time?

A No. Since the morning of the day I first testified with respect to them—whichever day that may have been—they have been in my possession.

Q In your possession since that day?

A Yes.

Q Prior to that they were in the Secretary's possession.

A Yes.

BY MR. KOHN:

Q Were you ordered not to give them to anyone?

A No.

Q I asked him and he said he couldn't give them to me because the attorney General's office had them.

A That may have been.

ATTORNEY GENERAL McBRIDE: You mean specific cases you asked for?

CHAIRMAN TOMPKINS: Well now, General, there has been a great deal of criticism of this committee that we did not go back into the files of cases prior to 1955. I find that files were withdrawn from there and it would have been an impossibility for our investigators to have found those records in there.

ATTORNEY GENERAL McBRIDE: You had five or six weeks to do it. When it became quite obvious you weren't interested in doing it, Mr. Wright started to do it, and, as he testified here, these particular cases were in the possession of the Secretary until the very day he brought them before the committee to testify from them.

CHAIRMAN TOMPKINS: I would like to know how long they were in the possession of the Secretary. Our men were looking back through the files—

ATTORNEY GENERAL McBRIDE: They never were out of the possession of the Secretary.

CHAIRMAN TOMPKINS: They were not in the proper place in the files.

ATTORNEY GENERAL McBRIDE: Well, they must have been. When they were collected, they must have remained right there among the other files, available to anybody, because nobody else had them.

CHAIRMAN TOMPKINS: They were segregated, however, Mr. Wright said, and placed in the hands of the Secretary.

THE WITNESS: Certainly, so that we would have access to them.

CHAIRMAN TOMPKINS: How would you expect that our investigators would run across these cases by going through the files if they were segregated and placed some place else?

THE WITNESS: I don't know, except perhaps by asking the Secretary for them.

REPRESENTATIVE LOPRESTI: Mr. Chairman, let's get it straight. If you will recall, when letters were being read into the record concerning Democratic influence, Mr. Bell made the suggestion that other cases, beginning on a certain date, be brought in. Then I amended his suggestion by suggesting that the Attorney General look through the files from 1950 on, and if there were other letters dealing in politics, mentioning political figures, that they be brought in. Now the Attorney General and Mr. Wright have done that at the request of this committee.

ATTORNEY GENERAL McBRIDE: We didn't do it before then.

CHAIRMAN TOMPKINS: Our Counsel and this committee have been condemned for not having gone into these cases, and I am now saying I don't know that they could have gone into them when the files were taken out and segregated.

ATTORNEY GENERAL McBRIDE: We didn't take them out until after the statement by Mr. Lopresti was made before this committee. Now there is no use making a to-do about this and trying to condemn us.

CHAIRMAN TOMPKINS: There has been criticism of this committee on that question.

SENATOR YOSKO: Now just a minute. I leveled the criticism at this committee for not listing cases that were heard by—

MR. KOHN: There has been no criticism of counsel, Mr. Senator.

SENATOR YOSKO: There are 6 cases I gave you just

a short time ago that are not among the 17 that if they were looking for they could have found. There may be another 100 cases that you could list for hearing, but they were looking for specific cases. They were looking for cases in which there were letters written by politicians or others. That does not necessarily say that there are not other cases where there are no letters, that might merit public hearing.

CHAIRMAN TOMPKINS: Your situation is different from this one because you said you had specific cases. We asked you to give us information as to the names of those cases.

SENATOR YOSKO: And I gave you the names of the cases.

CHAIRMAN TOMPKINS: Sure, you did, on Monday of this week.

SENATOR YOSKO: Because I gave you six, that doesn't say that is all the cases there are.

CHAIRMAN TOMPKINS: I agree with you there.

SENATOR YOSKO: So if there are fellows who want to look for them, they can find them.

CHAIRMAN TOMPKINS: The fact of the matter remains that these cases were segregated and our investigators could not have found them, had they been looking for them.

We stated we were not going to limit this to January 1955. We stated that from the beginning of these proceedings.

REPRESENTATIVE LOPRESTI: It may be significant, however, Mr. Chairman, that until this moment neither this committee nor its counsel has brought before us for discussion a single case beyond the tenure of the present Pardons Board.

CHAIRMAN TOMPKINS: You cannot do it prior to the time that you can schedule it, either.

REPRESENTATIVE LOPRESTI: I know, but it is significant that we have not discussed any.

REPRESENTATIVE BELL: Mr. Chairman, while we are having a round-robin on letters, apparently Mr. Hean, has made a very thorough search during those two years in response to my request, and I read in the newspapers all he has found have been two letters from New Jersey Congressmen and one letter from a New Mexico Senator, and this week they got a letter from a Congressman in Pennsylvania.

Now I will leave it to the committee to judge as to whether that is a fair, impartial search. It seems mighty wrote to this committee or this Pardons Board during the period in which there were found the New Jersey and New Mexico inquiries.

SENATOR SCOTT: Mr. Chairman, I would like to ask a question. General McBride, are we finished with all the letters?

ATTORNEY GENERAL McBRIDE: Yes.

SENATOR SCOTT: Would you again like to reiterate your statement that you are placing those letters into the record not to show any wrongdoing on the part of the last Pardons Board but you are doing it purely to—

ATTORNEY GENERAL McBRIDE: I am more than happy to reiterate it. I have not changed my position at all and I think that I am taking an impartial position. I am not criticizing the Republican Party for doing something that I wouldn't criticize the Democratic Party for doing.

SENATOR YOSKO: Let me say what I have said a dozen times. The Pardons Board has absolutely no control over who writes letters on what stationery. What ought to be considered is not the stationery the letter is written on but the substance of the letter.

If I, as a public servant, or any person on this committee, as a public servant or public official, would want to write a letter on behalf of somebody, certainly it should not be construed as political influence.

CHAIRMAN TOMPKINS: Senator, I agree with you 100 per cent, but that is not the issue that I raised.

SENATOR YOSKO: I don't want to rehash this thing all over again, Mr. Chairman, but at the first meeting we had—or was it the second meeting we had— our staff was to prepare two lists, one was to contain all of the cases involving capital punishment, and the other list was to contain cases other than capital punishment cases.

CHAIRMAN TOMPKINS: We have rehashed that and it will serve no good by going over it again.

SENATOR YOSKO: I have not to this day seen either list.

CHAIRMAN TOMPKINS: That is all, Mr. Wright.

MR. KOHN: I have four cases here I would like to dispose of, if I may. They are along the same lines.

CHAIRMAN TOMPKINS: Proceed, Mr. Kohn.

MR. KOHN: I want to say this to Senator Yosko. He has been harping ever since these hearings started about giving us cases. He gave them to us Monday of this week. Three of them we already had in our files and had prepared. So I mean it is very easy for someone to sit up there and start telling us what to do and what not to do, but we haven't had very much assistance from Mr. Yosko.

SENATOR YOSKO: I am not talking about assistance.

MR. KOHN: I am. I am talking about assistance and you haven't given us one bit of assistance.

SENATOR YOSKO: I am not supposed to do your job. You know as well as I do that each time you complained about lack of help, I was the one that volunteered the suggestion to put people on.

I say to you now, Mr. Kohn, if you need some more people on your staff, I will vote to put them on.

MR. KOHN: And I say to you now, Mr. Yosko, for weeks you have been talking about—just a minute, let me finish—you have been talking about giving us cases; and this week is the first time you gave us any cases.

SENATOR YOSKO: I am not supposed to give it to you.

MR. KOHN: What is the use of coming in here and saying you are going to.

SENATOR YOSKO: Where are those two lists you were supposed to compile?

CHAIRMAN TOMPKINS: All right.

DAVID S. KOHN, Recalled on

DIRECT EXAMINATION

THE WITNESS: Mr. Chairman, I would like to dispose of four cases here. Mr. Hean gave us letters from Members of Congress and I think these also ought to go in the record.

The first case I would like to call to your attention is the case of Stephen S. Terlesky. I might state that in all of these cases commutation was denied. However, inasmuch as they do contain letters from Members of

Congress, Mr. Hean has turned them over to us, I think in answer to Mr. Bell's letter, that they should go into the record.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, how can they possibly be helpful? The question is not who writes the letters but whether or not it is possible to infer that there was some influence. If they have been denied executive clemency, how can that possibly be helpful?

CHAIRMAN TOMPKINS: We will take it for what it is worth.

THE WITNESS: Mr. Hean gave them to me. I don't want to keep them out and have him accuse me of not putting them in the record.

This is the application of Stephen S. Terlesky. He was charged in Northampton County with fradulent conversion. The facts were that he had been a reputable real estate dealer in that county for quite a number of years. He took $5000 in down payments on development of homes, from 9 people. The Parole Board statement is that he paid these out for commissions and operating expenses in trying to get started. He could not return the money and was sentenced in Northampton County to 2 to 4 years and to make restitution.

His case came up before the Board—he was sentenced on November 22, 1955—his case came up in the October Sessions of 1956. Judge Woodring advised that he had no objection to the Board exercising their discretion under the facts and District Attorney Palmer had no objection to commutation being granted the applicant by the Board. He has an excellent prison record. The reputation of the applicant is stated as follows: Applicant had an excellent reputation in the community prior to the commission of the offenses. He was very active in charitable drives in the city of Easton. He was also considered one of the leading real estate brokers in this area. Applicant has no previous criminal record.

The Board refused this application. The only thing in the file that Mr. Hean called to my attention was the fact that there was a letter from Congressman Walter, Francis E. Walter, dated August 10, 1956, on the stationery of the Congress of the United States. The letter is as follow:

"Dear Mr. Hean:

"I am informed that an application for commutation has been or will be filed on behalf of Stephen S. Terlesky who is serving sentence in Northampton County Prison. To the best of my knowledge this is Mr. Terlesky's first offense. I am confident he will in the future conduct himself as a law abiding citizen. I respectfully request careful consideration of his application by Members of the Board."

SENATOR YOSKO: Mr. Kohn, who appeared on behalf of the applicant before the Board?

THE WITNESS: Virginia R. Terlesky, and I checked the testimony. She appeared before the Board. I think I showed it to you, Senator. It was just exactly one paragraph. The entire hearing consumed one sheet, just one sheet of typewritten paper.

SENATOR YOSKO: Just let me say at this time that I concur in the sentiments of Congressman Walter. In my opinion this application should have been approved, because I believe that the sentence was exorbitant.

THE WITNESS: There are quite a few other letters in, but none of them—

SENATOR SCOTT: Who was the sentencing judge?

THE WITNESS: Barthold, Woodring and Frack. I think there were three of them sat at the time of sentencing. There are three of them listed.

CHAIRMAN TOMPKINS: Was it a plea or a trial?

THE WITNESS: A plea.

CHAIRMAN TOMPKINS: This was the court sitting en banc to sentence?

THE WITNESS: That is right.

SENATOR SCOTT: Commutation was denied?

THE WITNESS: Yes. Good prison record, excellent previous reputation, no previous record.

SENATOR YOSKO: I have often said I wondered what made the Board tick, and I still wonder. As I said before, I believe the sentence in this case was exorbitant. I join with Congressman Walter in the opinion that the applicant should have had his sentence commuted.

I just wonder how many casse were acted on favorably during the same term, and the types of applications, the types of crimes that were committed. I would like to make a comparison between them. Here is where I am not arguing about granting one; I am arguing about not granting one.

ATTORNEY GENERAL McBRIDE: In any event, nobody can contend there was political influence.

SENATOR YOSKO: That is right.

CHAIRMAN TOMPKINS: Senator, you didn't write a letter in this case, did you?

SENATOR YOSKO: No, I didn't. I probably should have. And I would not consider it political influence if I did.

THE WITNESS: The next case is Peter Prenni, A-6727, January Session 1956. This man was convicted of first degree murder and sentenced on March 4, 1947. He pleaded guilty, was tried, and the case was taken up to the Supreme Court of Pennsylvania.

August 20, 1956 on the stationery of United States Senate, Dennis Chavez, United States Senator, 310 U. S. Court House Albuquerque, New Mexico, wrote a letter to the Board of Pardons:

"Dear Mr. Chairman:

"I was contacted by Father Peter Prenni, of Lourdes Village, Albuquerque, New Mexico, who asked me to write to you to inquire what you might be able to do to obtain or recommend a parole for Pete Prenni, #C-131, who is now an inmate at the Western State Penitentiary.

"I have written to Warden A. C. Cavell and received a reply. I also received a medical report on the inmate.

"Not knowing in detail the reasons why Mr. Prenni is in the penitentiary, I cannot state the merits of his conviction, but after reading the medical report, it seems as if this man is paying for any crime he might have committed in the past.

"All things being equal, anything you might be able to do to help him obtain a pardon or parole will greatly be appreciated by everybody concerned.

"Sincerely,

"Dennis Chavez."

Mr. Hean wrote the following letter in reply:

"August 23, 1956, Honorable Dennis Chavez," the address.

"Dear Senator:

"Receipt is acknowledged of your letter of August 20, 1956. I wish to advise you that Pete Prenni was sentenced by the Oyer and Terminer Court of Indiana County, Pennsylvania, on the 4th day of March 1947, to life imprisonment for the crime of murder in the first degree. The applicant plead not guilty and stood trial. The jury hearing the case brought in a verdict of guilty, but recommended mercy. The offense for which he was found guilty carries with it the death penalty. However, the jury has the right to recommend mercy.

"The prisoner was charged with killing one Mary Vranko in the perpetration of the crime of rape. His defense was that the victim drew a knife, whereupon he picked up a club and struck her on the head, which resulted in her death.

"The application of Pete Prenni was heard by the Board of Pardons at its November 1954 Session and again at its January 1956 Session. His applications for commutation of his sentence were refused. The Board, at the time of the hearings, had before it the medical reports as to the condition of this applicant. Both the Judge and the District Attorney of the County expressd their opposition to any commutation of sentence.

"I have written you rather at length on this matter, believing that you are entitled to some of the factors that were involved in this case. The applicant is eligible to file another application for hearing at the January 1957 Session of the Board.

"Very truly yours,

"Frank R. Hean,
"Secretary."

BY CHAIRMAN TOMPKINS:

Q Mr. Kohn, does it appear in there whether or not the defendant was a resident of New Mexico, as a reason for the intervention? Or was it a relative?

A No I think it is apparently—if you recall the beginning of the letter it said, "I was contacted by Father Peter Prenni of Lourdes Village"—somebody who might have been a relative. The defendant's name is Peter Prenni. He was contacted by Father Peter Prenni, who, I think, was probably a misspelling. The first name might not have been the same. Either they are both named "Peter Prenni" and they are related or the "Peter Prenni" that contacted Senator Chavez perhaps had another first name.

This was the case of a 70 year old woman and the defendant had been drinking prior to that time, which defense he used, but the jury convicted him nevertheless.

Q How old was the defendant?

A I can tell you that very quickly. He was not very old. About 35 or 36 years of age.

Q Very well, proceed.

A It was a question of whether or not he was drunk at this time, drunk enough not to know what he was doing.

BY ATTORNEY GENERAL McBRIDE:

Q Well, did they do anything for Senator Chavez?

A No. I said that in the beginning, didn't I? Do you want me to repeat it?

Q No, but I just don't understand that.

A I don't understand it either. I don't understand why Mr. Hean picked these out and gave them to me and kept the others. I don't understand that either.

Q If Mr. Hean told you to jump off a bridge, you wouldn't jump off the bridge, would you?

A I certainly don't want to be accused by the Department of Justice or Mr. Hean for not bringing out the things he gives me, in answer to Mr. Bell's request.

Q You are bringing it out as a favor to Mr. Hean.

A There is a letter here in the case of Anthony Baerchus A-2291, September Session 1956, to commute the minimum sentence on a charge of burglary, which was 15 to 30 years in the Eastern State Penitentiary. He was from Lackawanna County. He started serving 8-7-47.

The only significance to this is a letter—this was also denied—which was received from Hugh J. Addonizio, Member of Congress:

"Gentlemen:

Anthony Baerchus, E-69 at State Penitentiary, Graterford, Pennsylvania, has applied for commutation.

"I will appreciate your giving every possible consideration to his case.

"Sincerely yours,"

BY CHAIRMAN TOMPKINS:

Q How do you spell the Congressman's name?

A H-u-g-h J. A-d-d-o-n-i-z-i-o.

Q Where is he from?

A I will have to get that original letter out. This is a copy. This is from the 11th District of New Jersey.

Russell Storm, A-2868, commute my minimum sentence, the charges armed robbery, sentenced to Graterford on February 3, 1954. The case came up before the February 1955 Session. He was sentenced to 2 to 5 years. There is a letter from Honorable Daniel J. Flood, Member of Congress, from the Wilkes-Barre District, dated June 6, 1956:

"Chairman Parole Board
"Department of Justice
"Commonwealth of Pennsylvania
"Harrisburg, Pennsylvania

"Dear Sir:

"I would like to bring the attached letter, which I received from Russell Storm, to the attention of the Board.

"Please be good enough to let me have your comments, returning the enclosed letter with your reply.

"Sincerely yours,

"DANIEL J. FLOOD, M.C."

I would not even bother cluttering up—if you want to put it in, I will put it in—I see no significance at all in the letter.

MR. KOHN: Now we have other cases here, Mr. Chairman, which we would like to go ahead with, if you would like to clean them up.

CHAIRMAN TOMPKINS: I think Mr. Bell has a question.

REPRESENTATIVE BELL: I would like to ask Mr. Hean a question or two.

FRANK R. HEAN, Recalled on

FURTHER DIRECT EXAMINATION

BY REPRESENTATIVE BELL:

Q Mr. Hean, did you make a thorough search of your records for the period January 1955 until the end of 1956?

A I went over the records in reply to your request, if we had any other letters in our file from Members of Congress, and I found 3 or 4 that I handed to Mr. Kohn.

Q Was it a thorough search?

A I wouldn't say it was a 100 per cent, but it was a rather thorough search through about, oh, eight or nine hundred cases.

Q Did you find any other letters:

A No. I picked out all those I found that had the letterhead of a Member of Congress, either House or Senate.

Q The only two Pennsylvania Congressmen were Congressman Walter and Congressman Flood?

A That is right.

BY MR. KOHN:

Q Did you look at the Taraborrelli case? Or didn't you find it?

A Offhand I don't recall whether I did or not.

BY REPRESENTATIVE LOPRESTI:

Q Did you limit your search to Members of Congress?

A That is all.

REPRESENTATIVE BELL: That was my request.

THE WITNESS: There was a general request from some Member of the committee as to letters that might have a tinge of political influence. That is the time when 4 men at different times— not working together—went over approximately 5000 files looking for such information.

REPRESENTATIVE BELL: My request was for letters from United States Congressman and United States Senators.

THE WITNESS: That is correct, Mr. Bell. I tried to comply with it.

CHAIRMAN TOMPKINS: Did you want to make a statement?

ATTORNEY GENERAL McBRIDE: About the time? Did I want to make a statement? I just wondered how long you were going on.

MR. KOHN: We would like to put some of our cases in.

ATTORNEY GENERAL McBRIDE: All right, I have no objection to your doing it. I am supposed to go elsewhere on an important consultation.

SENATOR SCOTT: Is there a time when you are supposed to be there?

ATTORNEY GENERAL McBRIDE: The time for the meeting was quarter of three, and it is now quarter after. I don't press it. Perhaps if it is just these routine cases, upon the assurance that it is just these routine cases—

MR. KOHN: I will say to you, Mr. McBride, that there is nothing in these cases which I think Mr. Wright couldn't handle.

ATTORNEY GENERAL McBRIDE: Mr. Kohn has assured me there is nothing will come up except these routine cases, and upon that assurance, I ask the committee to permit me to go.

CHAIRMAN TOMPKINS: We don't know exactly what cases they are. Should any questions come up over them, General, we certainly will set them aside, if there is any controversy over any of them, until next week.

ATTORNEY GENERAL McBRIDE: I appreciate that very much. Then you will excuse me now.

MR. KOHN: I might say, Mr. Chairman, that we have given Mr. McGuire a list of these cases to come up.

ATTORNEY GENERAL McBRIDE: I hadn't seen it.

CHAIRMAN TOMPKINS: The committee would like to continue until 4:00 o'clock, because the more we can get in, the quicker we can conclude our work.

ATTORNEY GENERAL McBRIDE: I understand that thoroughly.

CHAIRMAN TOMPKINS: We will take a ten minute recess.

(Short recess)

CHAIRMAN TOMPKINS: Very well, Mr. Kohn.

MR. KOHN: Mr. Chairman, I would like to call my associate, Mr. Evans, who has researched some cases. The only significance to these cases is the fact that he researched them, plus the fact, of course, that they have received newspaper publicity and I think they should be publicly aired.

JAMES WILLIAM EVANS, Recalled on

DIRECT EXAMINATION

THE WITNESS: This is the list we started on the other day. The first one I have on my list is the case of Lester Gore, but I don't believe Senator Yosko wants that to come up at this time, do you?

SENATOR YOSKO: No.

THE WITNESS: I have a series of 3 cases, John Donald Greenawald, A-564, John Vincent Franklin, I haven't got the number here on it, and John Korkabecz A-1822. All three of these cases were heard in the February Session 1953.

CHAIRMAN TOMPKINS: Were these accomplices?

THE WITNESS: I will make a statement relative to all of them right now, I see nothing in the file indicating improper influence of any kind, but we point out these cases for the benefit of the committee on possible remedial legislation because in all 3 of these cases—and I am certain there are more, but I picked these 3 out—there were two Members of the Pardons Board voting but not sitting, which I feel is a bit unusual under the circumstances.

BY CHAIRMAN TOMPKINS:

Q When were those cases heard?

A February Sessions of 1953. The two Members in each of those 3 cases voting but not sitting were Lloyd Wood and William Livengood.

Q In that connection, I think the constitutional requirement is that it would take a quota of 3 Members to act.

A That is correct.

Q It doesn't say they must be sitting.

A No, it says nothing about that, but we are pointing it out to the committee for whatever purpose it may serve, if there is any remedial legislation of any kind.

Q Now what offense was involved here?

A In the case of Greenawald it was murder, first degree murder. He was asking for commutation of a life imprisonment sentence. Commutation was granted.

Q How long did he serve?

A He had served at that time 21 years.

Q Where was that from?

A Westmoreland County. The next one, the case of John Vincent Franklin, the defendant was sentenced for burglary and larceny and some other minor charges, for which he received a sentence of 5 to 10 years. His minimum sentence was communted from 5 years to 4 years and 1 month.

Q What county was that from?

A That was from Lehigh County. The next one, John Korkabecz, was sentenced 8 to 20 years from Lackawanna County for burglary. The Board commuted the minimum sentence to 4 years and 1 month.

BY SENATOR YOSKO:

Q What year were they?

A They are all the same Session, February 1953.

MR. KOHN: We have the original, signed William S. Livengood, voting but not sitting.

CHAIRMAN TOMPKINS: What are the reasons they gave?

THE WITNESS: This is John Korkabecz. I will give you a resume, if I may. He was 18 years old at the time of the commission of the crime. The Board felt it was an unduly severe sentence. He has a good prison recommendation. Both the trial judge, Judge Eagen in Scranton, and the district attorney leave the matter to the Board. The Board felt the boy had been sufficiently punished. That is a summary of the reasons for the commutation.

MR. KOHN: Do you want the others?

CHAIRMAN TOMPKINS: Yes, what were the reasons?

THE WITNESS: John Vincent Franklin, it seems that this man had an unusual situation. While he was in the Eastern State Penitenttiary he aided the officials in preventing a murder in the institution. Thereafter he was transferred to the Montgomery County Prison for his own safety.

Both the trustees of the Eastern State Penitentiary and Montgomery County Prison state that he has an excellent institutional record. The trial judge favored this application. The D. A. had no objection. That is the basis for the commutation.

MR. KOHN: I think it is very important that the Board consider that these people were voting on cases, a murder case and other cases, that they evidently did not sit on and hear. That is the reason that we brought them to your attention.

THE WITNESS: There are other cases of this type that we have not brought to the attention of the board; I mean we just picked out these.

BY SENATOR YOSKO:

Q If a Board Member does not sit and hear the case, is he eligible to vote on it in spite of that?

A As far as I know, there is nothing to prevent him from voting on it.

BY REPRESENTATIVE LOPRESTI:

Q How many Members of the Board constitute a quroum for the purpose of hearings? Or did they have a hearing in these particular cases?

A There were hearings in all these cases. The Constitution provides there must be at least 3 Members favoring. I know of no restriction how many must sit for a quorum.

Q In these particular cases there were hearings, two were not sitting, and three voting?

A Yes.

MR. KOHN. All of them voted?

THE WITNESS: They all voted. I believe, in these particular cases.

MR. KOHN: We had the same situation in Commonwealth against Nick Spaleno, which was under the present Board, and Mr. Cohen didn't sit but he did vote. Now I am not making any implication—

CHAIRMAN TOMPKINS: Are you raising the question, should a Member vote who does not sit and hear the case?

MR. KOHN: That is the question that is involved in those cases.

BY REPRESENTATIVE LOPRESTI:

Q Have you searched the records of that particular session to determine whether these two men did not sit in on any other cases on a particular day and then acted upon all of them? Or was it just one or two cases?

A. I am almost certain that the answer to your question is that on this particular day in February 1953 neither Mr. Wood nor Mr. Livengood heard any of the cases.

Q. And they acted on all of them you think?

A. I am quite certain of that. I can't say certainly, but, as my recollection goes back—I didn't make a notation—but I think that was the case.

Q. Can you do this for me without too much work: Check on that particular Session of the Board and indicate to this committee whether or not those two Members of the Board sat during any part of the session and then tell us what cases they voted on?

A. I believe we can do that without too much trouble.

CHAIRMAN TOMPKINS: Any other members of the committee? Mr. Wright, do you have any questions on these 3 cases?

MR. WRIGHT: No.

CHAIRMAN TOMPKINS: Very well, proceed Mr. Evans.

THE WITNESS: The next case we have is the case of Harry Mayo. This is a case where the defendant was convicted of murder. We bring this case to the attention of the committee because it was mentioned more than once in newspaper articles.

Incidentally, this case involved the murder of a policeman. In the file we find no evidence of any political influence of any kind, or improper influence of any kind. There are no so-called political letters in the file. It was commutation of a life sentence. This was heard in June 1955.

In justification of the Board's decision in this case, there were many letters from people of all walks of life favoring this commutation. As a matter of fact, there is a letter

in the file from the wife of the victim, in which she states that she had "sincere doubts" as to whether or not the defendant was guilty at all.

He had served a substantial portion of a minimum for second degree murder—

BY CHAIRMAN TOMPKINS:

Q. He was convicted of second degree murder?

A. He was convicted of first degree murder. This was a commutation of a life sentence. I haven't got the exact number of years he served, but, as I recall it, he served 12 or 13 years. As I say, a substantial portion of a minimum for second degree conviction.

There were many letters in this file—

Q. That seems to be quite a thick file. How many times was he before the Board?

A. No, this is the Shaeffer file. We had Mayo here somewhere, I don't know, unless someone has picked it up. I had it.

MR. KOHN: Go on to the next one. We will come back to Mayo.

THE WITNESS: We covered the case of Paul Shaeffer the other day. The next one we have is the case of Theodore Elliott, No. A-1615, heard in February 1955. This is a commutation of a death sentence to life imprisonment.

Again, this case is brought before the committee because of a great deal of publicity in the papers throughout the State on this commutation. This again is a cop killing, so to speak. The Board recommends the commutation of the death sentence on the reasoning that the defendant was a mental defective, and that seems to be supported entirely by the record, by the reports of the psychiatrists both for the Commonwealth and for the defendant.

In this case there was an unusual situation where the psychiatrist who had testified for the Commonwealth at the time of the trial, and testified that the defendant was legally sane and able to undergo a trial, understand the nature of the trial, the psychiatrist himself several years later became incarcerated in a mental institution as a mental degenerate.

The Board seemed to base a great deal of strength on that argument, that the man was a mental defective, and it was certainly supported by the record.

Again in this case we find no evidence of any kind of any political influence or other improper influence.

BY CHAIRMAN TOMPKINS:

Mr. Evans, I went over this case quite thoroughly last evening by myself and there were some things that came to my mind there that I tried to bring out with Mr. Finnegan this morning. The record in that case indicates that past psychiatric examinations indicated him to be a mental deficient or mental defective. The psychiatric report that was taken by the court at the time of sentencing states that the psychiatrist who gave that report was later confined to a mental institution himself and there was some question as to whether or not he was sane at the time he made his report.

I found nothing in the file, however, to indicate that the Pardons Board had made any investigation on their own to determine what his mental condition was at the time they considered his pardon. This is one of the issues I was trying to bring out with Mr. Finnegan this morning, as to what the Pardons Board does in a situation of that kind.

Is there anything in the record to indicate that the Pardons Board did have an investigation made at the time the case was before them for consideration?

A. Not to my knowledge, except—

Q. I know there are a lot of past psychiatric reports in there; but was there any report of his condition at the time the Board considered the case?

MR. KOHN: Mr. Chairman, while he is looking at that, may I make a statement at the request of Lieutenant-Governor Furman?

CHAIRMAN TOMPKINS: Yes.

MR. KOHN: He had asked us to check our file. I had made a statement in the Nicholas Spaleno case that Mr. Cohen, the Attorney General, had voted on that case and did not sit. I would like to call to your attention that in that case there was no commutation granted, while in the previous 3 cases we have in 1953 there was commutation granted by the signatures of two persons who did not sit.

In the Spaleno case it was not granted. The record therefore does not contain a recommendation of commutation but the records of Mr. Hean show that there were 4 "noes" and therefore of necessity, Mr. Cohen had voted on that case but it might very easily have been an error on Mr. Cohen's part—I mean Mr. Hean's part—in counting Mr. Cohen there.

Mr. HEAN. May I explain that? At times during the session a Member may be called to the phone or to his office, and leave the Board. Therefore we note it as not sitting for that particular case. But he may return, and then sit in executive session. That happens from time to time.

THE WITNESS: I find no record that the Pardons Board had an independent psychiatric examination, although it runs in my mind that there were several psychiatric examinations made just shortly before this matter was considered by the Board.

CHAIRMAN TOMPKINS: The reason I raised the issue, Mr. Evans, I went through the case very carefully last night, and that situation sort of stuck out like a sore thumb.

THE WITNESS: There does not appear to be anything in the file which would indicate that the Board of Pardons had their own psychiatrist examine.

CHAIRMAN TOMPKINS: The last psychiatric report they had in connection with this applicant, then, was one which occurred prior to the time of the commission of this offense, other than the one given to the court by the psychiatrist who later himself was declared incompetent. There is quite a record, I know, of psychiatric examinations.

THE WITNESS: There are a number of them in here.

CHAIRMAN TOMPKINS: But you have found nothing of any current examination at the time of the consideration by the Board?

THE WITNESS: The answer to your question as far as I can see, is no.

CHAIRMAN TOMPKINS: Governor Furman, would you be able to make any statement on that?

LIEUTENANT-GOVERNOR FURMAN: I didn't hear your question.

CHAIRMAN TOMPKINS: I tried to bring out that with Mr. Finnegan this morning, as to what independent investigations are made by the Board in connection with statements that are made before the Board. This case is one that involves a mental defective or deficient. There are a lot of past phychiatric reports in the file but there is nothing to indicate that there was any psychiatric report on the defendant current with the consideration by the Board of the case.

LIEUTENANT-GOVERNOR FURMAN: I don't recall particularly in this case, but I do know that where there is a question about those reports, we have gone into the matter of investigation. I think it was in the hearings in February we had a case that was referred back to the courts, asking them to appoint a commission to make a study of the applicant—

CHAIRMAN TOMPKINS: That was the case where the defendant was adjudged insane between the time of sentence and the time of the date fixed for execution, as I recall.

LIEUTENANT-GOVERNOR FURMAN: Yes, but I can't recall this particular case. I know we have made investigations.

CHAIRMAN TOMPKINS: This was a case that was written up quite prominently in the papers. There were a great many controversial newspaper accounts, controversial communications, and the entire matter seems to have been resolved upon psychiatric reports which were taken even prior to the time of the commission of the offense.

LIEUTENANT-GOVERNOR FURMAN: I think at the hearing that was discussed very thoroughly by the attorneys and the information they had was submitted. It all appears in the testimony of that case.

CHAIRMAN TOMPKINS: I wish you would examine the case, Mr. Evans, because that point to me is rather important.

LIEUTENANT-GOVERNOR FURMAN: It would be in the transcript.

THE WITNESS: It might very well be. I don't recall having seen it. I know the thought occurred to me at that time. The best I can give you on my recollection is that there was a psychiatric examination that was accepted by the Board which was made just shortly before this was presented to the Board.

LIEUTENANT-GOVERNOR FURMAN: I think that is correct, although my recollection is rather hazy.

THE WITNESS: I can remember the age of 9 years was the mental age of the defendant that was given.

CHAIRMAN TOMPKINS: That was in prior psychiatric reports, however, as Io recall it.

THE WITNESS: This was shortly before this was presented to the Board. I have the notation here that a reputable psychiatrist stated he was mentally ill and was such prior to 1950. I am almost certain that that examination was made sometime shortly before it was presented to the Board.

CHAIRMAN TOMPKINS: The reason I raised it is because I didn't find it in the record any place. How many times was this case before the Board?

THE WITNESS: I believe only twice. According to my notes in October 1952 it was refused and it was finally granted in February 1955. In between that time there were numerous appeals both to the Supreme Court of Pennsylvania and to the—I know it got as high as the Circuit Court of Appeals in the Federal jurisdiction—it may even have gotten to the Supreme Court. I think it did.

CHAIRMAN TOMPKINS: You say there was a commutation granted in this case?

THE WITNESS: Yes sir.

MR. KOHN: How much time did he serve?

THE WITNESS: Well, he was not sentenced until April 10, 1951; commutation from death to life. Incidentally, on this case, the Assistant District Attorney representing the D. A.'s office in Philadelphia—

BY CHAIRMAN TOMPKINS:

Q. Is this the same case?

A. The same case, Elliot case, had no objection to the commutation.

Q. Wasn't there some criticism of that position?

A. There was. There are a number of newspaper articles in the file. There is an article from the Inquirer under date line of February 21, 1955, apparently criticizing the Assistant District Attorney for favoring the commutation at the hearing. The following day, on February 23, 1955, the reply of the Assistant D. A. was printed in the Inquirer.

There are several other articles, but they are the gist of the editorials.

Q. This involved the murder of a policeman?

A. Yes sir; in the robbery of an Acme Store.

CHAIRMAN TOMPKINS: Mr. Wright, do you have any questions?

BY MR. WRIGHT:

Q. What was the basis for the position taken by the District Attorney's office?

A. I believe, as I recall it, he agreed with the argument set forth by counsel, that the man was mentally defective and that there was at least a reasonable doubt as to whether or not he was mentally defective at the time of the trial, based on the fact at that time the psychiatrist, at the time of the trial, had since become a mental degenerate. I believe he died from it, as a matter of fact, the psychiatrist.

Q. And also the fact that the district attorney stated that the mental defectiveness of the applicant had been otherwise established?

A. I believe that is correct.

MR. WRIGHT: Mr. Chairman, I would like to suggest that Mr. McBride has a rather intimate knowledge of this particular case—much more than I do—and I would like to ask that he be permitted to comment on it when he returns.

CHAIRMAN TOMPKINS: We told him we would reserve that right for him.

MR. KOHN: We think that is agreeable. Not only that, but we are not finding fault with this case. I want that known.

CHAIRMAN TOMPKINS: One thing I am concerned about is the latest psychiatric report they had on this applicant prior to the time they acted upon it.

MR. EVANS: There was some legal question raised at the time as to whether or not he could be executed in view of the fact that he was now mentally ill. I believe that question was raised before the Board.

CHAIRMAN TOMPKINS: I don't like to shut you off, Mr. Evans, but the hour of 4:00 o'clock having arrived

and the committee members have other distances to travel, we will recess these meetings until 10:00 a. m., Wednesday, April 10.

(At 4:05 p. m., the hearings adjourned until 10:00 a. m., Wednesday, April 10, 1957.)

* * * * *

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same.

JAMES O'HARA.

Reported by:

James O'Hara
c/o Courthouse
Lebanon, Penna.

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION NO. 1, PRINTER'S NO. 8

AT HARRISBURG, PENNSYLVANIA

DATE APRIL 10, 1957

VOLUME XI

Patricia L. Sayer, P. O. Box 496, Harrisburg, Penna. CEdar 2-2832.

INDEX

Committee's Witnesses	Direct	Cross	Redirect	Recross
James W. Evans	1874	1895		
Genevieve Blatt	1898	2000		
Alexander L. Suto ...	2029	2036		
Hon. Edward Biester ..	2040	2070		
Donald W. VanArtsdalen	2106	2134		
Margaret C. Gordon ..	2150			
Marian R. Ford	2162	2198		

EXHIBITS

Committee	Identified and Received
Exhibit No. 34—Subpoena to Dan McNeill	1874
Exhibit No. 35—Letter from Hon. Curtis Bok	1932
Exhibit No. 36—Packet of 11 letters from Jurors	2128
Exhibit No. 37—Series of 5 letters bearing letterhead of Witkin and Egan	2199

BEFORE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION NO. 1, PRINTER'S NO. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a.m., Wednesday, April 10, 1957

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

VICTOR H. WRIGHT, ESQUIRE, Deputy Attorney, General Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania.
For—Committee

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel)

JAMES K. ARNOLD, ESQUIRE, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel)

CHAIRMAN TOMPKINS: General McBride, we are about to take up the Darcy Case or Cases. The Pardon Board file in this case discloses the following:

One, you were consulted as an attorney in this case at the time of trial.

Two, you were counsel of record for Darcy on an appeal to the Pennsylvania Supreme Court.

Three, on June 29, 1949, you wrote to Governor Duff, asking that no execution date be fixed for Darcy because you wanted to file a write of certiorari on an appeal for Darcy.

Four, on August 22, 1949, you again wrote to Governor Duff, asking that no date for execution be set for Darcy, as you that week were filing a writ of certiorari with the United States Supreme Court.

Five, there is nothing in the record to indicate that you have ever withdrawn your appearance for Darcy. You as defense counsel were seeking to obtain as such the very thing this Pardon Board has granted and which this Committee is charged with investigating. There being nothing in the record to show your withdrawal from the

case, you will still appear as defense counsel for Darcy and defense counsel for the Board of Pardons in justifying your actions.

Under these circumstances I feel the position you have taken is in conflict with the interests of the Commonwealth of Pennsylvania, which you now represent as Attorney General. While these matters have been previously raised with you, I feel that before going into the Darcy cases these facts should again be called to your attention.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, you have called them to my attention with a frequency that begins to sound like a broken record. You have always prefaced your remarks by stating that you were speaking on your own and not for the Committee. You state today that you yourself feel that they ought to be called to my attention. They have been on numerous occasions.

I find no inconsistent position whatever in my having taken the position I did in the Darcy case and its procedure through the courts. I never appeared for Darcy before the Board of Pardons.

When you say that my appearance was entered for Mr. Darcy and was never withdrawn, you engage in a subtlety which escapes even me and undoubtedly escapes all other lawyers. My appearance was never entered before the Board of Pardons for Mr. Darcy. I never sought Execeutive clemency for Mr. Darcy. I never appeared directly or indirectly in any such efforts. I was never consulted about executive clemency for Mr. Darcy.

The request for failure to fix the date of execution so that further legal proceedings could have been had is an automatic procedure taken by every lawyer who wishes to go before the Supreme Court of the United States. Therefore, it is not true, as you very subtly suggest, that I am seeking, as you put it, what was granted by the Board of Pardons in this case.

The Darcy case is not before this Committee at all. In any event, approximately six weeks ago, in all fairness, I said to this Committee that if there was any disposition in the minds of the members of the Committee to decide that I were disqualified, then, in fairness to the Board of Pardons that decision ought to be made in ample time so that the Board of Pardons could retain counsel of its own; or in such a head-on clash between the executive and legislative power, recourse could be had to the judicial power for the proper solution. You have not chosen to do that. So far as I know, you have not even had a vote of the Committee or sought a decision of the Committee.

Your own personal efforts to raise this question in an attempt to embarrass me is part of your conduct of this investigation in which you have acted in such a partisan fashion, expressing glee over every kind of bit of evidence that was introduced that might embarrass the Board of Pardons, and you expressed public chagrin when any evidence would come in in its favor. I think you are raising this only for political and newspaper purposes, and I will not disqualify myself. I am not disqualified and I say it with a conscience and sence of equity and decency at least equal to your own.

CHAIRMAN TOMPKINS: In order that the record may be straight I might state that this question was initially raised with the approval of the entire Committee. The statement I have made this morning has the approval of the majority of this Committee.

We have called these matters to your attention for the purposes of the record.

Mr. Kohn?

MR. KOHN: Is Dan McNeill here? (No answer in the hearing room.)

Mr. Chairman, I have here a return of subpoena served on Dan McNeill, Kingston, New Jersey Trap Rock Company, on the 15th day of March, 1957, by my associate, James W. Evans, who at that time interviewed Mr. McNeill and elicited certain facts from him. McNeill was subpoenaed here for the 3rd day of April, 1957, at 10:30 a.m. At that time he failed to show up. Subsequent to that failure to be here, I instructed Mr. Evans to contact him again, which he did last Friday, and Mr. McNeill made certain statements to him. I would like to call Mr. Evans.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I rise to a point of order.

It has never seemed to me heretofore to be admissible, even in this type of proceeding, to interview a man, and then just report to this Committee what that man told the interviewer, without any attempt to enforce the subpoena. Certainly the proper effort should be to apply to the proper court and force the man to come if he was properly served.

SENATOR SCOTT: It wasn't indicated to me, Mr. Chairman, that that was what Mr. Kohn was attempting to do.

ATTORNEY GENERAL McBRIDE: I may be in error.

SENATOR SCOTT: I thought Mr. Kohn was going to attempt to interview this witness as to what was said betweeen him and the person who was going to appear here this morning. What was your purpose, Mr. Kohn?

MR. KOHN: I intend to show the fact that the subpoena was served and that there was a conversation relating to the Darcy case in this matter and what the attitude of the witness was in regard to appearing here.

In regard to Mr. McBride's position, I think his position is untenable. I think what this Committee wants to hear is a matter for them. It is not a matter for the court of law or matter of defense for Mr. McBride on behalf of the Pardons Board. I think we have a right to show why a witness is not here, what he said about the matter and what excuse he has given for not being here.

In regard to the power of this Committee to subpoena, Mr. McBride made a statement that that should have been taken up in proper action. I am not defending, sir, our action in the matter because I don't think it is up to Mr. McBride or anybody else to tell this Committee how to run its affairs. However, I did feel it was necessary, in order to establish our position in this matter, that we check the law in the matter and find out just exactly what power this committee had to subpoena. As a result, I call your attention to 18 P. S. 4212, Refusal to Obey Legislative Subpoena, which is the Act of 1939, June 24 P. L. 872, Section 212, which reads as follows:

> "Whoever wilfully neglects or refuses to appear and testify before any committee of either branch of the General Assembly or before any joint committee thereof, after being duly served with a subpoena to so appear, or is in contempt, by reason of any such neglect or refusal so to appear and testify, or either, is guilty of a misdemeanor, and on conviction thereof,

shall be sentenced to imprisonment not exceeding one (1) year, or to pay a fine not exceeding $500, or both."

The question is whether or not this legislative committee has a right to issue such subpoena beyond the Commonwealth in enforcing court action.

Act of June 13, 1842, P. L. 491, Section 1, reads as follows:

"WITNESSES: power to issue subpoenas, compel attendance, and commit to prison; payment of expense of imprisonment:

Each branch of the legislature shall have the power to issue their subpoena, as heretofore, practiced, into any part of the commonwealth, and by attachment to compel the attendance of all persons summoned as witnesses, and in case any witness brought to the bar of either house shall refuse to be sworn or affirmed, or having been sworn or affirmed, shall refuse to render an answer to all legal questions duly propounded, the speaker of the house before which such refusal shall be made, shall have full power by the direction of the said house to issue to the sergeant-at-arms a warrant of commitment to the prison of Dauphin County, the inspectors and keepers thereof are hereby authorized and directed to receive and confine such delinquent so committed until discharged in due course; and the expense of such imprisonment shall be paid out of any money in the State Treasury not otherwise appropriated."

It is my opinion that we have subpoenaed this man. He has made certain statements about his appearance here. I see no way legally that we can appeal to the court or what this legislature has the power to enforce a subpoena which was served beyond the confines of this Commonwealth. However, we feel that he having been subpoenaed and he having been a material witness in this case, we should be allowed to give his evidence as to why he refused to answer the subpoena and what was said in pursuance thereof.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, to make my position clear, I don't urge any technicality about getting this witness here. If there was anything I could do to help you get him here I would do it. And I don't object to Mr. Evans' stating anything that the witness said as to whether he would or would not appear. But I say that where the witness is not here, anything included in that statement which would constitute substantive evidence as to the Darcy hearing which you are probing, should not be heard. It is pure gossip.

SENATOR SCOTT: May I suggest Mr. Kohn be allowed to examine the witness and if there is a particular question, Mr. McBride, that you may have, you raise the question at that time?

ATTORNEY GENERAL McBRIDE: That is satisfactory.

MR. KOHN: Of course, there is other law on this that I don't think is applicable.

(Subpoena marked for identification as Committee Exhibit No. 34.)

JAMES W. EVANS, a witness having been duly sworn, was examined and testified as follows on

DIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Evans, what position do you hold with the Legislative Committee?

A Associate counsel.

Q Did you interview one Dan McNeill?

A I did.

Q What connection did he have with this case that you ascertained before you interviewed him?

A I interviewed Dan McNeill on the 15th of March, 1957, at Kingston, New Jersey, at the Kingston Trap Rock Company, where Mr. McNeill is the purchasing agent. I had information which Mr. McNeill verified to me that Mr. McNeill at one time, in the words of McNeill, was personal assistant to Mr. McCloskey in Philadelphia, that he had been the personal assistant to Mr. McCloskey since 1937, up until about two or two and a half years ago.

Q As a result of this information which you received, did you go to interview Mr. MeNeill?

A I did, at the Kingston Trap Rock Company, Kingston, New Jersey.

Q Did you see him there on March 15?

A Yes, I did.

Q At that time did you serve a subpoena on him, a copy of which has been put into evidence as Exhibit 34?

A I did.

Q Did you give him a copy of that subpoena?

A I did.

Q Did that subpoena direct him to appear before this Committee on April 3, 1957, at 10:30 a.m.?

A Yes, sir.

Q Did he appear on that date?

A No, he did not.

Q Subsequent to his failure to appear, were you instructed to again contact Mr. McNeill with regard to his failure to appear here?

A I was.

Q Where did you talk to him?

A I talked to Mr. McNeill by telephone from Kingston, New Jersey. I was in Kingston, New Jersey, on the 5th day of April, 1957, and telephoned Mr. McNeill at the Kingston Trap Rock Company where he is employed.

Q Did you talk to him personally?

A. I did. I asked for McNeill and I recognized his voice; we have conversed on my prior visit there. I asked him at that time whether or not he was going to appear and answer the subpoena and he said he was not. I did ask him at that time why he was not. He wouldn't answer me. Then I asked him the question, "How long after I subpoenaed you did you talk with Mr. Pannell?" We have mentioned the name of Pannell prior to that in our previous conversation. He didn't say that he talked with Mr. Pannell except that he did say in answer to that question that he had been advised to stay out of the State of Pennsylvania, that later he had conferred with the Kingston Trap Rock Company attorneys and they also advised him to stay out of the State of Pennsylvania and he was not going to answer the subpoena or appear before before this Committee. This latter conversation took place on April 5, 1957, by telephone. I was about a mile from the place that he was employed at that time. I checked to make sure he was going to be in and if he would have talked to me again I would have gone out to see him but there was no sense in going out.

Q Previous to this time had you elicited from him on your first visit, information that was necessary for this Committee to have in order to get full consideration of the investigation, of the Darcy and Foster cases?

A I did to some extent, yes.

Q Where did that conversation take place?

A The conservation started in Mr. McNeill's office at the Kingston Trap Rock Company.

Q This was not by telephone?

A No. This was a personal conversation between Mr. McNeill and myself. At that time Mr. McNeill gave me his card which I have here, with his telephone number on it. I talked at his office with him for roughly a half hour when he suggested we leave there, he didn't feel comfortable discussing the matter at his place of employment. We went to Millstone Inn, Kingston, New Jersey, a mile away from Kingston Trap Rock Company; incidentally, that was the place I made the telephone call from on April 5.

Q Did you ask Mr. McNeill to meet you on April 5?

A I did. I wanted to talk to him personally if I could, and he said there was no sense in us discussing the matter any further and decided he would say nothing further at all in the matter.

I might say this, if I may interject. There may be some question as to why I did not go out to see him on the 5th of April. In order to obtain entrance to the Kingston Trap Rock Company there is a series of procedures which you must go through, and mainly this, that there is a guard at the gate, the place is enclosed in wire. You must give your name at the gate, at which time the guard calls up to the main office to see whether or not the particular person you are interested in seeing will see you. It was my opinion after my previous visit that had I gone out April 5 I would not have been able to get in to see him anyhow.

Q You would not have been able to even talk to him?

A That's right. I had a fair amount of difficulty getting in the first time.

Q. What information did he give you originally in regard to his connection with the Darcy case?

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I have objected to nothing so far, and I think it was all entirely legitimate. I do think that this is wrong. It is hearsay of the purest kind.

REPRESENTATIVE BELL: This conflict of interest matter was brought up and Mr. McBride made quite a long answer to your statement. I think that right now is an example of conflict of interests on behalf of the Attorney General. In the first place, the Attorney General is the chief law enforcement officer of the Commonwealth, as you stated. He is now objecting to the introduction of certain evidence. Now, is he objecting to this introduction as the chief law enforcement officer of the Commonwealth, or is he objecting to it as counsel to the Pardons Board? In other words, if there is something wrong here, I should think the chief law enforcement officer of the Commonwealth would be just as much interested in hearing it as we on this Board.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, everytime I hear sentiments expressed like this I marvel that this gentleman says he is a lawyer. He ought to know why I object to that. He certainly knows that gossip isn't a good way of getting information. I object simply because I think it is untrustworthy. I just don't understand why you think information like this is productive of truth.

REPRESENTATIVE BELL: Mr. McBride, you can have your opinions of other people's abilities as attorneys, and you have expressed them very well. But we as a Board will take this evidence for what it is worth, and you also know that as Attorney General. I don't think you are going to get any place with the members of the Board by trying to belittle them or trying to ridicule them.

HENRY HARNER: Mr. Bell,—

CHAIRMAN TOMPKINS: Just a minute. You are not involved at all.

SENATOR YOSKO: There will be no talking from the audience. If you want to be heard, ask to be heard.

HENRY HARNER: Mr. Chairman, as a former member of this Board—

CHAIRMAN TOMPKINS: Just a minute,—

SENATOR FLEMING: I object, and I ask that the State Police be called if this man will not shut up.

CHAIRMAN TOMPKINS: You are not here involved as counsel or anything else.

HENRY HARNER: I am here involved as an individual.

CHAIRMAN TOMPKINS: Very well, you will be heard when the time comes—

REPRESENTATIVE BELL: I would like a ruling from our counsel as to whether anyone interrupting these hearings can be held on any criminal charge.

HENRY HARNER: This is where the Senator McCarthy aspect of this Committee—

SENATOR FLEMING: Mr. Chairman, I suggest you call for the State Police.

HENRY HARNER: You can't muscle me unless you do call for the State Police.

SENATOR YOSKO: Mr. Chairman, I hope you don't hear anymore talk here about conflict of interests. I think that subject has been discussed on a number of occasions and I think it has been established that there is no conflict of interests so far as Mr. McBride is concerned. We had a judge here, a number of judges. In particular, one from Erie County; he was specifically asked whether Mr. McBride's reputation—or rather, representation here of the Pardons Board or in his capacity as Attorney General represented a conflict of interests. Judge Evans specifically told everyone here, and it is a matter of record, that Mr. McBride participating in this hearing was not in conflict of interests. I hope, based on what has been said previously, that the question will not come up again.

CHAIRMAN TOMPKINS: As far as I am concerned, as far as the majority of this Committee is concerned, we have raised the issue here this morning and it has been disposed of.

SENATOR YOSKO: Now, Mr. Chairman, I am a member of this Committee, and I think out of respect to me and my colleagues, Mr. Lopresti, that if you were going to make a statement this morning, the least you could have done was call an executive session, as you previously did. You should have read the statement to us and informed us of the fact that you were going to read that statement. I think we, the minority members, are entitled to that courtesy so that when you continue to talk about the majority here, I have a right to assume that you had

called a meeting without notifying the minority, and that you took action on it. I am hoping that is not a fact, but you seem to convey that impression to me at least.

SENATOR SCOTT: Mr. Chairman, following the reading of your statement, I think General McBride stated very well that you were expressing that opinion as a member of this Committee. He gather that from the reading of the statement. I gather the same thing.

In reply to Senator Yosko, I can assure you that there has been no meeting of this Committee in which the majority members participated and gave approval to the reading of that statement. It is my understanding that Mr. Tompkins, as a member of that Committee and as an individual, made that statement, and I think he has every right to do that as a member of this Committee the same as you have any rights to make any statements, and so do I.

SENATOR YOSKO: Senator Scott, I wholeheartedly agree with that, I agree with what you just said; but if you will review the statements that were just made by Mr. Tompkins this morning, he did say on at least two occasions that he had authority to read that statement by the Majority.

SENATOR SCOTT: He didn't say that—

SENATOR YOSKO: Yes, he did.

SENATOR SCOTT: He did not say that he had the sanction of the majority of this Committee. He said he had permission from the majority to make a statement as an individual, which I don't think he needed. I think he could make it without the approval of anyone else on this Committee.

SENATOR YOSKO: If he would say he was making the statement on his own, that would be fine. Let us set the record straight.

SENATOR SCOTT: I think the statement speaks for itself. Where he said "I" a number of times during the statement, I am sure that General McBride got the import of the statement because he himself said that Mr. Tompkins was making the statement as an individual.

SENATOR YOSKO: But he did say he had the permission of the majority.

CHAIRMAN TOMPKINS: The initial issue on this case was approved by the Committee as a whole. The second issue in this case was approved as a whole. I am merely reiterating what this Committee as a whole had approved.

I wish you would send out for a police officer and get him in the room. Any further outbursts as we have had before will be dealt with summarily.

MR. HARNER: You are not scaring anybody, Mr. Chairman.

SENATOR SCOTT: I don't think that is the purpose for which the Chairman made the statement. It is not to scare anybody. It is to keep up the dignity of this hearing. If you have something to say, you will have an opportunity to testify under oath.

MR. HARNER: This Committee is striking at the very foundation of our system of jurisprudence.

MR. KOHN: I think there was a question and an objection to it, which I think ought to be ruled on before we proceed.

(Discussion off the record.)

MR. KOHN: Mr. Chairman, I would like to say this. Of course, a certain amount of this testimony deals with what he said, but it also deals with his intent, as to why he is not appearing here, and I think the second reason is relevant. It is not a question of the facts that he has related as being true or false; but it is a question of what he said as to why he did not want to appear.

(Discussion off the record.)

MR. KOHN: Mr. Chairman, here is the situation you have. There is a man who has been properly subpoenaed. We have gone after him twice. He makes certain statements as to why he won't be here and what he has to cover up. I am not alleging that there is any truth or falsity to these statements. I am not saying that you should take them as true or false, but I do say you should hear the testimony as to what reason he has given as to why he is not going to be here. If you will recall that we had a great deal of testimony before this Board of Pardons, which has heard a great deal of testimony which was not verified in regard to Mr. Lord saying there was hysteria in the community, and that this person was interested and that person was interested in it.

I think this Board has a right to find out why this witness is not here and what he is trying to hide and what he said as to why he is not going to be here.

That is the gist of it as to the purpose of it.

REPRESENTATIVE LOPRESTI: There is one difference, Mr. Chairman, that while those statements were being made concerning Mr. Lord, Mr. Lord was present in the room and he was here during four occasions while they were made, and Mr. Lord will be present before this Committee.

MR. KOHN: Mr. Lord did not know what he was talking about. He was giving statements to the Committee that were not verified.

REPRESENTATIVE LOPRESTI: Mr. Lord was here and he had a chance; but there is a man who has indicated that he is not going to be here. If we take testimony from a statement supposed to have been made, we will never know the accuracy of that statement.

MR. KOHN: Unless Mr. McClosky or Mr. McBride will produce him for us—

ATTORNEY GENERAL McBRIDE: Wait. Don't intimate that I have any control over that man or that I know anything about him. I don't believe I have ever heard his name in my life before.

MR. KOHN: I say this, that before I even started asking questions, Mr. McBride was on his feet objecting to the fact that there was a conversation and what he was going to say.

ATTORNEY GENERAL McBRIDE: You said so.

MR. KOHN: No, I didn't say so.

CHAIRMAN TOMPKINS: I don't think that counsel is intimating that Attorney General McBride has any part in this. He has merely suggested whether or not you in your capacity as Attorney General would lend your assistance here.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I have said to Senator Scott that if I have it in my power as Attorney General to get the man here, I will do it. I will give you my word that I will do anything in my power to get him personally before this Committee, no matter what he has to say.

SENATOR FLEMING: Would it not be pertinent to this Committee if this gentleman could tell us why he didn't want to come? We are not trying anybody. We are only trying to find out if any political influence was

used; and if Mr. Evans can give us some reason as to why this man didn't want to come, that might clear the atmosphere. I don't know if that is—

ATTORNEY GENERAL McBRIDE: Senator, on that aspect of it, don't you remember that I remained absolutely silent? If he has some reason for not coming, I have no objection to the Committee knowing about it; but it is far different on that aspect of the case than to have him say, "In the Darcy case I did this and that; I saw this man do this; I heard this man say something; and so on an so forth." I gather that is mixed in this conversation, that sort of thing, and it is to that that I object.

If we can get him here and subject him to the Committee's examination as to his motives, maybe he is on one side or the other, I haven't the slightest idea, but it is because of that, not being subject to reasonable interrogation that the law has always said that these out-of-court statements are untrustworthy.

I have nothing further than that to say.

BY CHAIRMAN TOMPKINS:

Q Mr. Evans, can you make any statements as to why he didn't want to appear?

A Yes, he did, and I will try to do everything I can to comply with Mr. McBride's request that it be restricted to statements which he made to me regarding his refusal to appear, his reasons for refusing to appear. If there is anything of substance as to who said what or what was done, I will leave that out.

Mr. McNeill told me that he was very much concerned and very frightened about this investigation. I asked him why, and he said, "I know when I am well off."

I asked him what he meant by that, and the only thing he would tell me—when I say the only thing, there were other reasons he wouldn't give me—when I pressed him, he said his present position with the Kingston Trap Rock Company was secured through the influence of Mr. McCloskey with Mr. McCloskey with Mr. Lionel Gilbert, who is the President of the Kingston Trap Rock Company. Mr. Gilbert lives in Pennington, New Jersey. He said, "I have a very good position here as the purchasing agent." He went on to tell me about a beautiful home, a company home. He said he had a new Cadillac. He said he was making $15,000 a year more than McCloskey had paid him at any time. He said he feared very much that he would lose all this if he testified.

BY REPRESENTATIVE BELL:

Q Did he further identify what Mr. McCloskey—

A Matthew McCloskey from Philadelphia. There was no question about that. In fact, he referred to him as Matt.

BY MR. KOHN:

Q What if anything did he say to you with regard to whether he was surprised that he was being subpoenaed?

A He told me that he was quite concerned and quite frightened about this, and he had thought that he might take off at one time, he said, when this investigation started. The words that he used, he said, "I know a lot." He said he was frightened about the—the only reason he would give me was his job. He felt his job would be jeopardized and he felt he was in a good financial position and he didn't want to lose it, and it was obtained through the intervention of Mr. McCloskey.

Q What if anything did he say with regard to whether he knew Marian Ford?

A Yes. That was not a reason, exactly, that he gave for not appearing; but he did say that he felt sorry for Marian Ford, that she suffered a lot through this. He feels sorry for Marian through this entire mess. He sees her socially.

Q Did he say he was still friendly with Mr. McCloskey?

A Oh, yes. He does business with him. This Kingston Trap Rock Company deals in stone materials, crushed stone particularly for roads and ready-mixed concrete. And Mr. McNeill has been—as I recall him telling me, he does not have a contract or at that time didn't have a contract with Mr. McCloskey and Company in Philadelphia, but he was working on one and seeing Mr. McCloskey and particularly Mr. McCloskey's boys concerning the furnishing of trap rock to McCloskey's company; but he still sees him quite a bit and they are still on friendly terms.

Q Did he say anything to you with regard to how long it was that he anticipated this investigation?

A Yes, he did. He made a statement to me when he said—just a moment—he said, "I knew there would be an investigation into this Darcy matter two or three years ago."

Q Go ahead. Did he tell you what he knew about the connections of counsel in this matter?

A Yes. He knew everyone concerned with the Darcy case, Pannell, Margiotti, the Pittsburgh office—

SENATOR YOSKO: We have been talking a great deal about Mr. McCloskey this morning, and there isn't one bit of evidence or testimony in the record that came before this Committee that implicates Mr. McCloskey in this case in any way, shape, or form. It seems to me, from statements that the witness is making, he is implying that Mr. McCloskey does have something to do with this case. Perhaps the witness has been called prematurely, I don't know, but I think there ought to be some ground work laid for implicating Mr. McCloskey in this matter before we go into a lot of testimony on it.

CHAIRMAN TOMPKINS: That will appear as the case unfolds, and Mr. McCloskey has been subpoenaed—not subpoenaed; he has been invited to attend. He has courteously said he will be here.

ATTORNEY GENERAL McBRIDE: But I think you are into the substansive aspects now .

SENATOR SCOTT: I do think we are getting a little far afield from the reasons why the witness stated he will stay away.

BY MR. KOHN:

Q Will you confine yourself to the reasons and the facts that he gave with regard to why he didn't want to appear here?

A (No response)

BY CHAIRMAN TOMPKINS:

Q Do you have any other reasons other than you have already stated, Mr. Evans?

A No, except that he did say that he would go to

Philadelphia. I suggested it to him, as a matter of fact, before I left, whether or not he would consult with—this was on the 15th of March—whether he would consult with Mr. McCloskey and Mr. Pannell before coming up here, and he said, "I imagine I will do so."

BY MR. KOHN:

Q Did you ask him to make a statement to you?

A I asked him if he would make a statement on the 15th of March, and he said no. However, he did say that he was to come to Harrisburg the following weekend, which would be the weekend of March 24. He said, "I would like to think this matter over during the ensuing week," and I said, "Will you call me when you get in Harrisburg." He said that he would. That would be the weekend of March 24.

Q Did he call?

A He never called.

Q Did he tell you that he knew anything about some other cases that might break if this one broke?

A Yes, he did. He was concerned likewise about those. There are no names on those cases, in all fairness to everyone. I couldn't get the names out of him.

Q On that weekend, that last weekend, did he at that time state to you that he would or would not appear?

A He told me he definitely wouldn't appear; not only that he wouldn't appear, but he wouldn't come into the Commonwealth of Pennsylvania.

MR. KOHN: We have a great deal of other testimony, but I think, with the restriction, I ought to stop on that.

(Discussion off the record)

CHAIRMAN TOMPKINS: Very well.

ATTORNEY GENERAL McBRIDE: I have no questions.

CHAIRMAN TOMPKINS: Do you have anything further?

MR. KOHN: Not of this witness. Maybe Mr. Yosko will have a question.

BY SENATOR YOSKO:

Q You know that Mr. McCloskey is a contractor, don't you?

A Yes, sir.

Q And as a contractor, he does business with a lot of people.

A Oh, yes, sir.

Q So what is there so unusual about the business that Mr. McCloskey does with this company in New Jersey?

A Nothing except this, that Lionel Gilbert, who owns the Kingston Trap Rock Company, according to Mr. McNeill's statement to me is very closely affiliated with Mr. McCloskey and Mr. James D. Morrisy, who is likewise a contractor from Philadelphia, politically. That is what Mr. McNeil says. I have no personal knowledge of that.

Mr. McNeill stated that Mr. Gilbert—I can't recall—I think he said is an angel for the Democrats in New Jersey; but I am not certain about that word.

Q Let us assume that that is true. What has that to do with the Darcy case?

A That wasn't your question.

CHAIRMAN TOMPKINS: We are here to evaluate his testimony.

A (Continued) You asked me what was the purpose in saying that McCloskey was a contractor and Kingston Trap Rock sold stone to him, and I am simply telling you what he told me with regard to any political affiliations.

BY SENATOR SCOTT:

Q I understand you are prepared to tell us what was said about the Darcy case, but you were shut off by this Committee; is that correct?

A To some extent, yes.

BY SENATOR YOSKO:

Q Were you told at any time by Mr. McNeill that he was told to stay out of Pennsylvania?

A Yes.

Q That he was told to stay out of Pennsylvania?

A Yes. I have testified to that.

Q Who told him to stay out of Pennsylvania?

A I gave you the conversation that I had with Mr. McNeill on the 5th of April by telephone, and I was in Kingston, New Jersey, at that time, about a mile away from the Kingston Trap Rock Company, where Mr. McNeill was, and when I asked him regarding our conversation on the 15th of March and of the subpoena I served on him that date as to whether or not he was going to answer it or come to Harrisburg to testify, he said no.

I said to him, "How long after I subpoenaed you did you talk with Mr. Pannell?" Because we had discussed Mr. Pannell in our previous conversation.

Q Mr. who?

A Dress Pannell, Mr. Pannell. He is in the room here today. He was Mr. McCloskey's attorney, and likewise attorney for Darcy. He did not say—he put it this way. It is a negative thing. He didn't deny that he talked to Mr. Pannell, nor did he say that he talked to Mr. Pannell in this conversation on April 5 on the telephone.

However, he did say that he had been advised to stay out of the State of Pennsylvania and that after, or later, he was also advised to do the same thing by the company attorneys. We had been talking about Mr. Pannell. So whether you interpret that as saying Mr. Pannel told him to stay out, I don't know. That is the conversation I had with him.

BY ATTORNEY GENERAL McBRIDE:

Q Do you know whether Mr. McNeill is the so-called pay-off agent mentioned by the newspapers?

A I haven't seen any articles, so I don't know what you are referring to exactly. If you will refresh my recollection—

Q Well, one of the Philadelphia newspapers referred to a financial angel or pay-off agent.

A Was that recently? Just a couple days ago?

Q I think so.

A I didn't read the article. I heard someone mention it to me. I don't think so; not to my knowledge.

Q There is another person who fits that description?

A You men in my judgment does it fit the description?

Q. Yes.

A. No.

Q. You mean there is no such other person?

A. You are speaking about the article?

Q. Yes.

SENATOR SCOTT: Which article are you referring to, General?

ATTORNEY GENERAL McBRIDE: The article in the Philadelphia Inquirer of Sunday morning, which mentioned a financial agent, also calling such person a "pay-off agent."

A. Pay-off agent?

Q. Pay-off agent, and it mentioned such person has been subpoenaed, and the article then went on and named other people who have been invited to appear. I want to know whether you can tell us whether Mr. McNeill, who has been subpoenaed, is this pay-off agent who has been described.

A. The answer to that is no.

Q. And is there any pay-off agent that you know of?

A. That I know of? No.

Q. Well, I gather from your statement that Mr. McNeill told you three years ago, which would be at least two years before any executive clemency was granted, that there would be an investigation of the Darcy case.

A. He said two or three years ago, yes, sir.

ATTORNEY GENERAL McBRIDE: That is all.

BY SENATOR YOSKO:

Q. Where did Mr. O'Neill work before he went to New Jersey?

A. Mr. McNeill was, as I told you, according to him, was employed by Mr. McCloskey as a personal assistant from 1937 up until two or two and one-half years ago in his words.

Thereafter, he and Mr. McCloskey had a—it has been variously described to me as a disagreement or understanding—they are mutually inconsistent—over an insurance matter, after which it was decided that Mr. McNeill leave Mr. McCloskey. He then went to James D. Morrisy and Company, and was employed in the office.

BY MR. KOHN:

Q. That was the Morrisy mentioned in the McSorley case?

A. Yes, one of the three men.

BY SENATOR YOSKO:

Q. But did Mr. McNeill tell you at any time that he was transferred to employment in New Jersey because he might be subpoenaed to come over before this body or any lower body?

A. He never made such a statement to me, and I never asked the question.

SENATOR YOSKO: All right. That is all.

CHAIRMAN TOMPKINS: Anything further?

SENATOR SCOTT: No.

CHAIRMAN TOMPKINS: Very well. You are excused. (Witness excused).

CHAIRMAN TOMPKINS: I wish to announce at this point that we have some State Policemen in the room, and with the permission of the Attorney General, we will ask them to remain through the balance of these proceedings in order to assist this Committee in the preservation of proper decorum.

ATTORNEY GENERAL McBRIDE: As far as the Attorney General is concerned, such permission is given.

GENEVIEVE BLATT, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q. Miss Blatt, do you have with you your personal files and calendar sheet in the Darcy case?

A. No, I do not.

Q. Will you send for those, please?

A. Yes, I will.

(Recessed).

BY MR. KOHN:

Q What position do you hold with the Commonwealth of Pennsylvania?

A Secretary of Internal Affairs.

Q You were duly elected as such on what date?

A November, 1954.

Q So you are also a member, as Secretary of Internal Affairs, of the Pardons Board by constitutional provision, is that right?

A That's right.

Q Are you a practicing attorney?

A That's right.

Q What bar are you a member of?

A Allegheny County, Pennsylvania.

Q How long have you been a member of the bar?

A Since 1938.

Q You are familiar with the rules of the Supreme Court of Pennsylvania?

A Yes.

Q Do you know the rules of court regarding review of murder cases, life imprisonment, or capital cases?

A I at one time read the rules. I don't want to subject myself to an examination on them today.

Q I will put the question this way: don't you or do you know the rules require that the Supreme Court read all the testimony, all the briefs, before deciding capital cases?

A I am not familiar with the exact statement of the rules to that effect.

Q Did you read all the testimony, all the decisions, in the Darcy case?

A I would not want to say that I read every word of all of them. I certainly went through a great many of them and read a great deal of it.

Q You affixed your signature to the commutation and recommendation to the Governor in the cases of David Darcy, Harry Robert Zietz, and Harold Holden Foster, did you not?

A. I did.

Q I show you these, being copies in the original files. Are they the ones you affixed your signature to (indicating)? I mean, are they similar?

A I presume so.

MR. KOHN: I would like to read these into the record.

CHAIRMAN TOMPKINS: Very well. Are those the official copies?

MR. KOHN: These are the copies that are in the files of this particular case. I do not have the originals. They are on file with the Secretary of the Commonwealth. (Reading:)

"Board of Pardons, in re Application of David Darcy, No. A-306, September Session 1956.

The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the Death sentence of David Darcy, who was convicted of murder in the first degree, in the Court of Oyer and Terminer and General Jail Delivery of Bucks County on February 16, 1949, be commuted from Death to Life Imprisonment.

Our reasons for making this recommendation are as follows:

Although opinion is divided among the members of the Board of Pardons as to whether or not David Darcy received a fair trial and as to whether or not the sentence imposed by the jury was within the law and proper, the Board is of the opinion that under the circumstances of this case executive clemency is required.

The Constitution of the United States and the Constitution of Pennsylvania guarantee that every accused person shall have a speedy and fair trial. Under the American system of constitutional and common law, conviction even of an admittedly guilty person is invalid unless that person has received the full measure of protection accorded by the Constitution.

Included in the guarantee of a fair trial is not only the right of appeal but the right to representation by competent and diligent counsel. So important are these rights that in Pennsylvania counsel is even appointed by the Court to represent the indigent accused.

Darcy's counsel has attempted to protect his client's rights with all diligence and fidelity, which is the sworn duty of all lawyers. The extraordinary circumstances which have caused such a lengthy delay and multiciplicity of appeals should not, and cannot, militate against the right of Darcy or any accused person to receive that full measure of consideration which the Constitution affords him. The numerous appeals and petitions filed on behalf of Darcy indicate that counsel was convinced that a legitimate and substantial question of constitutional right was involved.

Furthermore, many of the judges who heard the various appeals were similarly convinced. Darcy's counsel in petitioning for a new trial raised a number of questions going into the fairness of the trial, the conduct of the Judge and the atmosphere of hysteria and prejudice surrounding the court room. Twenty-three Judges of the highest courts of this country (seven Justices of the Supreme Court of Pennsylvania, seven Judges of the United States Court of Appeals for the Third Circuit and nine Justices of the Supreme Court of the United States), have examined the record of the Darcy trial. Eight of these Judges found that the petitioner had raised substantial and meritorius questions of deprivation of constitutional rights. Seven of these Judges held that not only had Darcy raised such questions but that he had in fact been denied his constitutional right to a fair and impartial trial, and that the verdict and sentence of death are violative of the Constitution of the United States.

It cannot, therefore, be said that the numerous appeals and petitions in this case, which have consumed eight years, were frivolous or without merit.

Darcy has, throughout the eight years during which he has been imprisoned under sentence of death, sought in vain a new trial. The Board of Pardons cannot grant a new trial, and is limited in its powers to making recommendations to the Governor. Since so substantial a doubt as to the fairness of the trial exists, however, and since the certainty that justice has been done should prevail, especially when the life of a human being is at issue, this Board cannot with clear conscience fail to recommend the exercise of executive clemency. With such a sharp and substantial division of judicial opinion upon basic constitutional rights, no other course to us seems proper."

In the case of Harold Holden Foster, A-352, September Sessions 1956, the Board made a recommendation as follows:

"The above application having been heard, upon due public notice, in open session, the undersigned members of the Board of Pardons recommend that the Death sentence of Harold Holden Foster, who was convicted of Murder in the First Degree, in the Court of Oyer and Terminer and General Jail Delivery of Bucks County on September 6, 1949, be commuted from Death to Life Imprisonment.

Our reasons for making this recommendation are as follows:

In view of the recommendation of the Board of Pardons in the David Darcy application, and which is in part applicable to the Harold Holden Foster trial, and in view of the fact that the Trial Court, in considering the plea of Felix Capone, imposed a life sentence rather than a death sentence, the Board of Pardons recommends that the sentence of Harold Holden Foster be commuted from death to life imprisonment."

In the case of Harry Robert Zietz, A-351, September Sessions 1956, an exactly similar recommendation was made except for the change in name. I will not read it.

All these recommendations were signed by Roy E. Furman, Lieutenant Governor; Henry E. Harner, Secretary of the Commonwealth; Herbert B. Cohen, Attorney General and Genevieve Blatt, Secrtary of Internal Affairs.

BY MR. KOHN:

Q Is that correct, Miss Blatt?

A That's right.

Q In regard to the phraseology of the Darcy commutation, did you write any part of that?

A I did not write any part of it. I participated in consultations regarding the writing of it.

Q Who did write them?

A It is my recollection that the Attorney General or someone on his staff prepared the first draft.

Q Do you have a copy of the first draft?

A No, I do not.

Q Did you read this last draft and subscribe your name thereto as approving it?

A I did.

Q Now, there are reasons given in here which relate

to technical questions which had been brought before the courts of this Commonwealth and the courts of the United States, and you were familiar with those decisions, were you, before you subscribed your name to approval of those reasons in this commutation?

A Yes, sir.

Q Do you agree, Miss Blatt, with the facts in this case?

A I believe so.

Q Do you know whether or not these three defendants were all tried together or separately?

A I think there was a severance in the case of Mr. Darcy.

Q In regard to the legal appeals which were taken, do you know if Zietz and Foster took any appeals?

A I don't believe they did.

Q Would you run across it if they had taken appeals to the State Supreme Court or to the United States Supreme Court?

A I would have hoped that I would have run across it. I don't recall any at the moment.

Q I notice that in the recommendation, reference is made to eight judges. Do you know what courts those 8 judges were members of?

A If I could see the commutation, it might recall it to my mind. I don't recall the details.

(Mr. Kohn hands paper to witness.)

A I'm sory, Mr. Kohn, that my recollection of exactly what was the division in the courts is not something I can rely on. The eight are a combination of certain judges in the Circuit Court of Appeals and Supreme Court, a mixture.

Q That was in the Darcy case?

Y Yes.

Q You say no appeals were taken as far as Zietz and Foster are concerned?

A So far as I know.

Q Do you think it would have been important for you to find out before you made your decision in this case and subscribed your name to the Zietz and Foster recommendations, to find out whether appeals had been taken or not?

A I think it would have been important, and I think had it been done I would have been advised of it and should recall it at this moment if that were the case. I do not recall it at this moment.

Q I would like to inform you that both Zietz and Foster had appeals before the Supreme Court of Pennsylvania.

A Thank you very much.

SENATOR SCOTT: They have or have not?

MR. KOHN: They did have, yes, they took appeals.

CHAIRMAN TOMPKINS: Do you have the citations?

THE WITNESS: I might say, if that is correct, I feel sure that that record must have been before us. I simply don't recall it now.

BY MR. KOHN:

Q Do you have anything in your files indicating that there had been appeals taken?

A I have my personal copy of the application as filed by each of these men, which I have had brought down from my office, and I have not gone through it.

Q You mean you have not gone through the file recently?

A Not within the last week.

Q In reading the testimony, can you tell me whether any of the three took the stand and denied these brutal murders?

A I do not recall that any of the three took the stand.

Q You say that they did not?

A I said I do not recall that they did.

Q Didn't you go over the facts?

A At the time I made this decision, I undoubtedly did.

Q You won't say that they did not take the stand?

A I am saying that I do not recall that they took the stand.

Q Do you recall what Darcy said, if anything, at the time he was called on by Judge Murphy of the District Court to testify?

A No, I do not.

Q You don't recall that either?

A No, I do not.

Q I notice that you made a statement in the commutation, of the fact that Capone, the 16-year-old accomplice who waited out in the car, received a life sentence and the Board in effect felt that should enure to the benefit of the other three defendants is that correct?

A I think the statement is merely that Capone received a life sentence. I don't think there is any statement that that should enure to the benefit of the other three.

Q Will you tell us what significance it had in the recommendations?

A I think it has this significance, of keeping the record full and complete as to what happened to all four accomplices in the crime.

Q I notice you don't mention anything of Capone in the Darcy case, but in the Zietz and Foster cases you mention that in view of the fact that the trial court, in considering the pleas of guilty, imposed sentence in life rather than death the Board of Pardons recommended the sentence of Zietz be commuted from death to life imprisonment; isn't that the statement that you are basing the commutation partly at least on the fact that Felix Capone received a life sentence by the court?

A There might be some inference to that effect.

Q Is there any other inference plausible according to your explanation about keeping the record straight?

A I think it is important to keep the record straight. I think the average person wanting to know what had happened in these cases would wonder what happened to the fourth man and it is important that some reference be made thereto in the commutations granted to these three. Why that was not mentioned in regard to Darcy at this moment I cannot tell you. If you would like a guess on my part, I will be glad to give it.

Q No. If you would like to make one, that's up to you, but I am not insisting on a guess.

A I think you want to get at as much of the facts as you can. My personal reason if I were to re-write the commutations today I would still put in the reference to Capone today, because the other two gentlemen, Zietz and Foster, were quite young also at the time of the crime.

Q How old were they?

A I don't recall except they were under 21, which I believe was Darcy's age.

Q How old was Capone?

A You said he was 16. My recollection was he was 17 but I know he was a very young man. The fact that those two were also under 21 I think might be pertinent.

Q What I am asking you is, the wording in this says that in view of the fact; what does that mean, "in view of the fact that the trial court, in considering the plea of Capone imposed a life sentence rather than death sentence?"

A Here were four men engaged in the same enterprise. As a result of the felony in which they were engaged the murder was committed—

Q Two murders.

A Two murders. One murder, which is under surveillance at this time. Whether the other case can be called a murder you and I know as lawyers would be impossible—

Q It hasn't been tried.

A The time limit has expired.

ATTORNEY GENERAL McBRIDE: Within a year and a day, the death must occur.

THE WITNESS: There were four men involved in the escapade that resulted in the murder. I think it significant that one of those four was originally given a life sentence, because under the terms of our law, all four are equally guilty when a murder results in an act in which all four were engaged.

BY MR. KOHN:

Q So it is your theory then that where two of them were tried separately by reason of a severance and one might receive life imprisonment from one jury, and the other might receive the death penalty, it would be your position on the Board of Pardons that the one receiving the death sentence should have his sentence commuted because the other received life imprisonment?

A I wouldn't like to answer a hypothetical question of that sort, but I think one purpose of the Board of Pardons certainly is to equalize sentences when the matter of unequal sentences is brought to their attention.

Q I want to get back to the same circle ending up at the same place, that you said in view of the fact the trial court in considering a plea—plea of guilty, was it not?

A In regard to Capone?

Q Yes.

A Yes.

Q Imposed a life sentence rather than a death sentence. The Board based its clemency on the fact there was a life sentence?

A At least in part.

Q Now, did you read the medical and psychological report on Capone?

A I do not recall that I read the report on Capone because he was not before us and I dont know that we had such a report available.

Q Did you attempt to get such a report from the Penitentiary?

A I did not.

Q Do you know that Capone had normal intelligence for a child of 12 years of age?

A I did not.

Q Did you look at the mental and psychological reports of Zietz and Darcy?

A Yes, I looked at everything that was available to the Board.

Q What was the medical report in regard to Zietz?

A I would have to consult the record to know. I don't remember.

Q You don't recall?

A No.

Q Is there any doubt in your mind that the psychological report made him out to be a fully matured, understanding person, who was mature enough to understand the significance and consequences of his act?

A I do not recall.

Q Do you recall anything to the contrary?

A I do not.

Q Do you recall anything to the contrary in regard to Foster?

A I do not.

Q Do you know whether Zietz or Foster or Darcy pulled the trigger that killed William Kelly?

A I would have to consult the notes. I know it was not Darcy. Which of the other two it was at the moment I don't recall. I think it was Zietz but I am not certain.

Q Miss Blatt, I show you a copy of a letter that I found in the file of each particular individual, Darcy, Zietz and Foster, and ask you whether you have seen that letter before (handing letter to witness).

A I think I saw this when I myself went through the file in the office of the Board of Pardons.

Q Was there a copy of that in the file which was submitted to you?

A No.

MR. McBRIDE: May I see it?

MR. KOHN: Yes (handing letter to Mr. McBride).

BY MR. KOHN:

Q Do you have the original calendar sheet on Darcy?

A Yes. To further elucidate on the letter you have just shown me, I might say that I would not want to say that that was not in the secretary's file at the time of the hearing. I personally do not recall having seen it.

Q But the Chaplain who wrote the letter did appear before the Board of Pardons and made a plea before the Board on behalf of these three defendants?

A No. It was a different Chaplain who appeared before the Board of Pardons.

I hope you will read that letter from this Chaplain as well as the transcript of the other Chaplain's testimony. I think it would be very revealing to the Board investigating here.

Q Did you pay special attention to the Chaplain's letter addressed to the members of the Board of Pardons by Father Walsh, did you pay special attention to this?

A I did not see that letter until long after signing—

Q That letter took no part in your deliberations?

A That letter did not.

Q Is it an unusual matter to have the Chaplain of the Penitentiary who is an employee of the Department of Justice submit letters to the Board of Pardons?

A I myself have not seen other letters. I have not been a member of the Board except since my own term of office and I don't know what the practice has been in the past.

Q Do you know of any others that have ever been submitted by any of the Chaplains of the Penitentiary in these cases?

A I do not.

Q You say there was another Chaplain that appeared before the Board of Pardons?

A Yes.

Q He also made a plea for these defendants, did he not?

A I might say the gentleman who appeared before the Board of Pardons was a former Chaplain, not a present Chaplain. He was a Reverend Lehman, who had come to me before the hearing and stated that he knew something regarding these cases that he felt should be told and asked if he would be permitted to tell it. I said that I would be very glad to take the matter up with the other members of the Board to see if he would be permitted to state what he wanted to say, and suggested that he come to Harrisburg the day of the hearing if he wanted to do so. He had not been employed at the Penitentiary for some years, but he said the matter weighed heavily on his conscience and he wanted to say what he had to say, that the attorneys did not know of his interest but he wanted to tell the members of the Board. He came and he did testify. So far as I personally was concerned, the testimony of Reverend Lehman was very very persuasive.

Q Is it unusual for a person of the Gospel to intervene in these cases? Aren't there many letters on file in every capital case asking for the same thing?

A I have seen other letters from ministers of the Gospel in regard to capital and other cases. It did seem to me unusual that this gentleman who was no longer connected with the prison in any way, officially or unofficially, after a period elapsed of four or five years or more, would come to me as a member of the Board and request an opportunity to be heard, as he said, because the matter weighed on his conscience.

Q He stated he served as prison chaplain at Rockview from 1950 to 1951, is that correct?

A I believe that is right.

Q Did he tell you the cursing and swearing and attitude of these boys during the time they were incarcerated there?

A No, he did not refer to cursing and swearing.

Q Did you make any attempt to obtain from the prison authorities the attitude of these boys in regard to their incarceration while they were there in contradiction to what the chaplain said for that brief period, 1950-1951?

A I personally made no attempt to quiz the prison authorities.

Q Do you feel the Darcy case deserved commutation because of the numerous legal appeals that had been taken, that Zietz and Foster should also be commuted?

A I think it would be unthinkable to commute from death to life the sentence of one accomplice in the crime, and order the execution of two others.

Q In other words, we get back to what I recounted to you previously, that if severances are asked and two different juries give out different punishment in the same crime, you as a matter of policy feel the court and jury should be overruled and they should be given the same sentence as a matter of equalization?

A Again I say I don't want to make a hypothetical answer to a general question, but in this particular case, where there are four men involved, four equally guilty as far as I can determine with the greatest diligence that I could bring to bear on the subject, I couldn't think of ordering one executed and let the other three serve life imprisonment.

Q Isn't that the same principle I have ennunciated, where four are involved in a crime, the jury might give out different punishment because they had severances, or that they might feel that culpability, brutality, were different, and you wouldn't under any circumstances feel that one should receive more than the other and you would upset the verdict of that jury?

A Mr. Kohn, I am sorry, I simply must refuse to answer a general question. I am here ready and glad to answer any questions regarding this case in which I happen to feel personally that they were all equally guilty.

Q And you feel that Zietz who pulled the trigger and shot a man recklessly and with abandon, should be given consideration because Darcy was given consideration and took all the appeals and received many reprieves?

A I will have to repeat what I said, in my personal opinion all four were equally guilty.

Q Wasn't Zietz old enough to know what he was doing? He was 23.

A I am not the one to say who is old enough to know what they are doing. I assume they all reached the age of reasoning to know what they were doing. As I stated, I think they were all equally guilty.

Q Do you think it is fair to commute the sentence of a killer who might be financially able to drag out a legal procedure for years as against one like Katz in the same county who appeared once before the Board of Pardons and was immediately executed thereafter?

A I don't know to what case you are referring. It is some other case. But in regard to this case, I think it is unfair to cast any aspersions on a man who exhausts the avenues available to him under the law. You and I know that anybody under our system of jurisprudence is entitled to every avenue of appeal open to him.

Q You think that by reason of the fact that having been granted these many reprieves and having been financially able to take all these appeals, he should receive any consideration, where an ordinary person who has not taken any appeals and not able to finance it—

A Mr. Kohn, you know and I know that any person, ordinary or unordinary, who wants to take an appeal, can take it, whether financially able or not. Our courts are always open, from the lowest to the highest, to anyone, regardless of his ability even to pay the costs.

Q What I am asking you is whether or not you gave any consideration—as the Chaplain said to you in his argument, as a result of the appeals being denied, did you give that consideration?

A I gave it consideration in my own personal evaluation of the case, thinking that if society is demanding punishment—and it has a right to demand punishment for any crime in which there is a conviction—men who have sat in the death house for 6, 7 or 8 years, whatever the limit may have been, I can't now recollect, and have faced the electric chair repeatedly, have already suffered a very very great deal—perhaps more. Although

who can equate human suffering—more than if they had been executed immediately.

Q Isn't it a fact that the fact that they have received reprieves are matters of their own making and they receive no special consideration as far as the law is concerned for having been reprieved or having taken appeals?

A I don't believe I understand your question. But if you mean is the fact that these men faced death several times because they or at least Mr. Darcy, of his own volition took an appeal which was refused, that had he not taken the appeal he could have faced death immediately and not faced it repeatedly, then of course I will have to say you are correct. But I also would insist that any person, the most vicious criminal, is entitled under our law to every appeal to which the law allows him, and I think it is wrong to criticize him for taking it.

Q You would say then that you did take into consideration the fact, in commuting this sentence from death to life, that you felt that he had faced death many times and that was to some measure punishment under the law?

A I thought it was because, as of the year 1957, he had already faced death many times. It entered somewhat into my decision.

Q That is not the law, is it?

A No. That is mercy.

Q Penalty is imposed by the court and jury, is it not?

A That's right.

Q To fit the crime as it happened at the time?

A That's right. But the Board of Pardons is set up as a forum of last resort for executive clemency which is based not on strict interpretation of the law but on dictates of conscience and mercy.

Q The more the man is able to drag it out, the more consideration he is entitled to because he faced death?

A No. A man is entitled to drag out his case as long as he legally can, and every court must be open to him as long as we have our American system of justice, until he has exhausted his legal remedies, and he can do that under our system whether he is rich or poor.

Q You think he is entitled to credit for that when he comes before the Pardons Board?

A I think he is entitled to nothing for that when he comes before the Board of Pardons. He got what is due him under our laws. It should not be held against him under our laws.

Q The law of the land is he should be punished with the death penalty. Do you think the Board should interfere because he could delay the punishment imposed by the law of the land and the jury?

A I said in all honesty the fact that he faced death many times entered into my personal equation of what was just and merciful in this case. However, there were other factors leading to the commutation which you of course read which to my mind were just as persuasive, and even without the fact of his having faced death many times I would still voted for commutation in this case.

Q You had your mind made up to vote for commutation before the case was heard, did you not?

A I did not.

Q How soon after the hearing, how many days' consideration did you give this before you all came to the same decision?

A As the case was being heard, I reached a decision in my own mind that I felt I personally in my own conscience would vote for commutation. In the discussion of the case with the other members afterwards, I tried to keep my mind open to whatever arguments they would have to advance. But I must say in all honesty from the moment that I heard the testimony given at the hearings, I felt as of then I should vote for commutation; during the further consultations I remained of that opinion.

Q How many days was it before the Board decided to grant the commutation?

A I would think that it was roughly about a week.

Q During that week were there any meetings of the Board to discuss this case? How many meetings of the Board were there to discuss the case during that week?

A As I recall, we met to hear the case on a Thursday, and we held further hearings in regard to other matters the following Tuesday. I don't believe that we met regarding this case or any others between Thursday and Tuesday, but I do believe that we discussed this case and others in our executive session on Tuesday. I have tried very hard to recall whether or not we met in a group subsequent to that Tuesday and I honestly can't recall it. But I do recall—

Q The hearing was scheduled for September 20, 1956, can we so agree?

A I believe so.

Q And you say it was heard on that day?

A Yes.

Q The Board deliberated about a week before they arrived at their decision?

A I think so.

Q And then it went to the Governor on what date, do you know?

A I don't recall what date it went to the Governor. I think I signed the commutation about one week after the hearing.

A I think so.

Q You signed it about a week after the hearing?

Q And that was after you had another session, after the day you heard the case on September 20, and then the Pardons Board got together and decided the case, and decided to commute, four votes to nothing; is that right?

A Yes. The Board of Pardons had a regular hearing date, September 25, at which as I recall it we again discussed the Darcy, Zietz and Foster cases.

Q And that's the first time a decision was made and a vote was taken, was it not?

A I believe so.

Q Do you have any notes to show to the contrary?

A No, I do not. I have looked for them but I do not find exactly when the vote was taken.

Q Have you looked through the minutes of the Board of Pardons?

A Yes, I did.

Q Doesn't that show as follows—look at your minutes of September 20, 1956.

A I have it.

Q "Board of Pardons of the Commonwealth of Pennsylvania, convened on September 20, 1956, at 9:15 a.m. EST, in the Supreme Court room. Those present were Roy Furman, Lieutenant Governor; Henry Harner, Secretary of the Commonwealth, Herbert Cohen, Attorney General; Genevieve Blatt, Secretary of Internal Affairs. The following action" under that date of September 20, 1956, "was taken: on cases 1 to 69 inclusive, number one

case, David Darcy, unanimously granted. Number 2, Harold Foster, unanimously granted. Number 3, Harold Zietz, unanimously granted," and ran from there on down to 69.

A I observed that, Mr. Kohn. It is not my recollection of exactly what happened.

Q Are these the minutes of the Pardons Board?

A That's right. I do not recall personally that we actually took a vote on that date. I do recall there was general discusion and it may have been, and it may very well have been that among the four of us we felt that we would probably vote for commutation. As a matter of fact, I suppose it is a logical deduction since the Attorney General began drafting a draft for cummutation. But I know personally and I am positive that I did not sign any at that time.

Q I didn't ask you whether you signed. I ask you whether it was voted on and decided and this record shows September 20, 1956, which I—well, the record so shows?

A That's right.

Q Is there anything under September 25 that there was any further consideration of this case?

A I do not believe so.

Q Now, I notice in your calendar sheet, about Mr. Hean.

A Yes.

Q I note under the word "Comments" a letter from Judge Bok dated 6-20-50, recommending leniency. Did Judge Bok enter into this case in any way?

A I seem to recall the letter.

Q Maybe you don't understand my question. I am asking you if Judge Bok was in these proceedings in any way?

A As a trial judge?

Q Trial judge, counsel or anything else.

A Judge Bok is a Philadelphia judge. This is a Bucks County case.

Q Do you know what significance Mr. Hean attached to that note that Judge Bok had written?

A I do not.

Q Did you ever question him as to why he called your attention to the fact that Judge Bok had written a letter recommending leniency?

A The general procedure which the Secretary follows is to provide the Board with copies of letters which have come to him regarding a case—all letters, whether they seem pertinent or not, and I presume that the case—

Q Do you have a copy of all letters in each file?

A No, I did not get a copy of all letters.

Q Did you get a copy of Judge Bok's letter?

A No, I do not have a copy.

Q Did you find out what significance was to be attached to Mr. Hean's statement that there was a letter from Judge Bok in this matter?

A Are you asking me as of then or as of now?

Q No, then.

A No, I do not recall inquiring into it.

Q There were numerous letters in those files, were there, from judges, district attorneys, preachers?

A That's right.

Q People in all walks of life on both sides of the story?

A There was a very voluminous file.

Q You don't know why Mr. Hean wanted to call to the attention of the Board on their special calendar sheet that Judge Bok had written in 1950 recommending leniency?

A No.

Q Is there any way that that letter entered into your consideration?

A That letter and all others I read undoubtedly entered somewhat in my consideration, but not overly so.

Q Did you read that letter?

A Yes, at the time.

Q And was there any special plea made by Judge Bok for the change of sentence here?

A I would like to refer to the letter if I might, because I don't recall it in detail. I just remember Judge Bok did think there should be leniency granted. The reasons for it don't come to my mind.

Q On what basis did he get into this case?

A I think that Judge Bok was an employer as a judge, of Mr. Darcy's father.

Q That is right.

A I think Mr. Darcy's father was a tipstaff in the Philadelphia courts.

Q And Judge Bok got into the case because of that fact, did he not?

A I think so. And I seem to recall that he said that Mr. Darcy Senior did not know of his writing the letter.

Q That's right, too.

A But he felt in conscience and knowing Mr. Darcy Senior as well as he did, he should inform the Board as to his feelings.

Q In other words, what Judge Bok said was this boy's father was working for him and therefore the boy should get a break?

A I would like to see the letter before I subscribe to —should get a break?

Q Certainly. Here it is.

(Mr. Kohn hands letter to witness)

Q Judge Bok knew nothing about the facts or the record, did he?

A May I read it?

Q Sure.

A "Dear Mr. Governor: On June 26, David Darcy and two others will be executed for their part in the Feasterville Inn robbery. Darcy's father has been a tipstaff in this court since its beginning in 1937. While he has not asked me to write to you, I could not feel comfortable if I did not meet his unspoken wish. I can conscientiously say in favor of commutation that Darcy did not fire the fatal shot and that he has no prior criminal record. Further, that with a good home behind him, and having come so close to the chair, it is unlikely that he would be a menace to society in which for such a serious crime he would have to spend the rest of his life, that society being prison. I could not honestly ask for his pardon, but since the extreme penalty might well be reserved for hardened or professional killers, I feel justified in recommending him to your mercy of commutation. Yours sincerely, Curtis Bok."

Q Do you know whether that is the reason Mr. Hean was anxious to mark that letter out of all letters, and bring it to your attention?

A I would prefer you ask Mr. Hean.

Q Did you try to find out why he was particularly interested in the 1950 letter?

A I did not.

Q Do you know whether Judge Bok knew anything about the circumstances or facts in this case?

A I do not.

MR. KOHN: I will ask that Judge Bok's letter be marked.

(Judge Bok's letter marked for identification as Committee's Exhibit No. 35.)

Q Now, Miss Blatt, did you discuss this case with anyone outside of the Board members and the Secretary?

A I did not discuss the case as to its merits with anyone outside of the Board members or the Secretary. I did discuss procedural matters regarding the case with two people.

Q Tell us who they were.

A It—the one person I have already testified about was Reverend Lenhart, who came to me with the request that he be permitted to say what he knew. The other was Matthew McCloskey, who came to me—

Q Was that last year?

A This was approximately one year, I should say, before the case came to the Board of Pardons. I have tried, because I had no doubt this question would be asked, to recollect exactly when that occurred, but I honestly cannot and have not been able to do it. My nearest recollection is that it was toward the end of 1955.

Q Wasn't it a political meeting which you and Furman attended?

A No.

Q Where was it?

A It was in my office, when Mr. McCloskey came to my office on several other matters involving our relationships, which had nothing to do with this case or the Board of Pardons; and he had with him a brief that had been filed on behalf of Darcy to the Supreme Court of the United States. He said, "I would like you to read this if you have the time."

I said, "I will, if I have the time."

And that was the end of the conversation.

Q When was that?

A I think it was toward the end of 1955. The exact month or day I honestly can't recall.

Q Was that a copy of the brief to the United States Supreme Court on the last appeal?

A I believe so.

Q Would you say that was a year before, that is, in 1955, that Mr. McCloskey gave you a brief that was to be filed with the United States Supreme Court?

A I think so, Mr. Kohn. I have really tried awfully hard to remember exactly when that was.

Q Do you have that copy?

A I am quite sure I have it somewhere. I don't have it with me here, and exactly where it is now I couldn't tell you because I didn't make an effort to keep it separate.

Q I understand that. Our calling you here has suprised you, and I am willing to consider that. However, this was in 1955 that Mr. McCloskey came to see you in your office; is that right?

A I believe so.

Q And at that time he stated that the case was pending before the United States Supreme Court?

A I don't recall that he stated it was pending anywhere at that time.

Q Where was the copy of the brief that he gave you?

A As a matter of fact, I cut the conversation off very shortly because I didn't want to be in the position of even seeming to discuss the case that might be coming to the Board of Pardons. It was not pending there, but I am sure any lawyer would assume that, if the legal remedies were exhausted in the courts, it may eventually end there.

So I discouraged Mr. McCloskey from saying anything further. He said, "Will you read the brief?" and I said, "I will," and that was the end of the conversation.

Q Who was with Mr. McCloskey?

A I believe he was alone.

Q And at that time he asked you to read the brief that was to be filed before the Supreme Court?

A I belive so.

Q Would it suprise you to find out that this case wasn't argued until May 1 or 2, 1956, before the Supreme Court of the United States?

A It would not suprise me if you tell me that was the case. However, a person might prepare a brief beforehand. I might be mistaken as to whether it was the brief before the Supreme Court or the case before the Circuit Court of Appeals.

Q Do you know whether the case was ever before the Circuit Court of Appeals in 1955?

A I don't know.

Q Did you accept that copy of the brief?

A I did.

Q You didn't want to talk to him, talk about the matter, but you wanted to read the brief?

A I wouldn't say I wanted to read the brief, but as a matter of legal curiosity, I did read it.

Q What was the question before the United States Court of appeals that you read about?

A You are referring to the United States Supreme Court or the United States Circuit Court?

Q You are saying now it might have been the Circuit Court of Appeals?

A I would like to ask leave to get the brief before I inadvertantly commit myself to a question I would have to correct later.

Q I will delay questioning on that—

CHAIRMAN TOMPKINS: I think she would be entitled to that.

Do you want to get that now or some time later?

THE WITNESS: I would like to say I don't know what Mr. Kohn might be trying to bring out. I am perfectly willing to say it could be either brief.

CHAIRMAN TOMPKINS: Would you try to get it during the lunch hour?

THE WITNESS: I would be very glad to; but whatever was left with me was a printed brief before some appellate court. I don't like to swear it was the Supreme Court of the United States or the Circuit Court of Appeals. Whatever it was, I tried very, very hard not to pay any undue attention to it; but I must admit, as a matter of legal curiosity, I did read it.

I then read that and other briefs over again at the time of the hearing, trying to be as fair about this and objective as I could. At this time I find it difficult to

distinguish what I read in one brief at one time and another brief at another time, and I don't like to be questioned if I can honestly avoid it because I want to be as honest as I can.

BY MR. KOHN:

Q Miss Blatt, are you opposed to capital punishment?

A No.

Q Mr. Herbert B. Cohen was Attorney General at that time?

A That's right.

Q Do you know whether or not, as Attorney General, he appeared in opposition to all cases in which Darcy was involved before the United States Court of Appeals and the Supreme Court of the United States?

A I do not know that of my own knowledge.

Q Didn't you read the briefs in the matter and the legal opinions of the court in which he is cited as the Attorney General of this Commonwealth?

A But whether he appeared or not does not appear in those briefs, and I don't know.

Q Let me put it another way. Do you know whether or not he filed briefs in opposition to Darcy's petitions before the United States Court of Appeals and the United States Supreme Court?

A I believe he did.

Q What position did he take with regard to Darcy's statements that there was hysteria there, that there was interference and all the other things that Darcy had raised?

What position did the Attorney General at that time take?

A Again, without being permitted to review his brief, I wouldn't like to quote or be quoted exactly; but my impression is that he felt there had been a fair trail.

Q And he so argued by the brief filed by his deputies in the brief filed before the Circuit Court and the United States Supreme Court?

A That is my recollection.

Q And the Attorney General won both of those cases; did he not?

A That is my recollection.

Q And the last decision of the United States Supreme Court was given by a 6-3 decision on June 11, 1956?

A I will take your word for it.

Q How long after that was there a commutation petition on file?

A I couldn't answer that.

Q You decided on September 20, 1956, is that right—

A On or about that date my recollection is.

Q Let us put it this way. The records of the Executive Session of the Board of Pardons as kept by Mr. Hean show that all 3 cases were decided on September 20, 1956?

A That is right.

Q Now, the petitions on this case had to be decided some time prior to September 20, 1956?

A Yes.

Q Don't your records show that it was decided on August 20, 1956?

A The copy furnished to the members of the Board don't carry the record of the filing, Mr. Kohn, but if that is the date you have, I will accept that.

Q Was there any conversation between you and Mr. McBride between June 11, 1956, and September 20, 1956?

A. Positively not.

Q Did he ever pick up the brief that he left here with you?

A No.

Q So that if it was filed, if—I show you the original application in this case and ask you whether or not it was not marked by the Board of Pardons as having been filed on August 20, 1956, with the Board of Pardons?

A It is.

Q So between June 11 and August 20 there were about two months that elapsed between the time of the decision by the Supreme Court of the United States and the filing of this application; is that correct?

A Yes.

Q In all of these cases, that is, rather, with the Supreme Court of the United States and the United States District Court of Appeals, which I think was heard in 1955, the Attorney General took a stand entirely contrary to Darcy's counsel's stand, did he not?

A I again would like to refer to the briefs before I would answer that categorically. My impression is that in general it was he was opposed; but these were on procedural matters relating to the trial, the specific questions raised in the appeal only and not on any matters that did not get raised in the appeal.

Q And those were the specific questions on which the Board of Pardons decided to grant a commutation, was it not? They were not on the facts. Darcy, Zietz and Foster did not deny one iota of the brutal fact of this murder, did they?

A I think you are trying to put words in my mouth, I think, unintentionally. However, the appeals that were taken to the Court all through these years related to specific matters, and the courts ruled on those specific matters only.

I think even the judges of the Supreme Court of the United States in the last appeal, if I read the majority decision correctly, would have preferred that there be a new trial if that was conceivably possible.

Q You say the majority said that?

A I think so.

Q Where did they say that? Would you check that for me?

A I am telling you my general impression.

Q I know. But you are stating—

ATTORNEY GENERAL McBRIDE: Why don't you let her finish her answer?

A (Continued) My argument and reasoning may be all wrong, but they are mine and I offer them for what they are worth; that many of the judges that had the specific request for review did not do so because they didn't have the judicial power to do what was requested. They would have preferred, had it been within their power, to grant a new trial; but, of course, as you know, the majority felt that it was not within their power.

My own feeling from reading the dissenting opinions, which have emphatically said in many cases that a new trial was called for under all the circumstances, plus the fact which seems to me that I read even into the majority opinions in some cases, that a new trial would have been better if they had had the authority to order it all weighed very heavily on my mind as a member of the Board of Pardons.

Q Did you read Osman's dissenting opinion, or do you?
A Do I?
Q Yes.
A Not every one of them; but I have read a great many and thought they have had a good deal of food for thought.
Q Now, there was a question on the guilt of the defendants, and they didn't plead innocence like they did in the McSorley cases or the other cases that we talked about—this is not one of those cases where the Board is considering commutation of sentence because of possible illness—
A No: and of course the Board wasn't considering freeing the men entirely; it was just a question of commuting from a death sentence to a life sentence.
Q But it has been argued by Attorney General McBride that, of course, the courts cannot go into those particular cases where there is a plea of innocence except within the technical rules of the law as may be required to granting or refusing a new trial.
A Of course, that has no bearing here at all.
Q That is right. So the courts considered matters which were solely and substantially up to the Courts themselves to decide, the rules of the evidence and the interpretation of the rules of evidence in these cases, were they not?
A Yes.
Q And yet the Board has set itself up as the upholder of the minority opinion an a 6-3 decision in the United States Supreme Court.
REPRESENTATIVE LOPRESTI: I think the constitution of our state has set the Board up for that purpose, not the Board itself. The Constitution has done that.
MR. KOHN: Let me withdraw that question. I think it was unfair.

BY MR. KOHN:

Q Nevertheless, in this particular case the Board of Pardons has gone into the field of the courts in interpreting what is and what is not a fair trial?
A I do not think so, Mr. Kohn. I think in this particular case, as in all cases during the time I have been a member of the Board of Pardons, the Board of Pardons had stuck strictly to its own jurisdiction under the Constitution of this Commonwealth, which requires it, whether it wants to or not, to hear appeals from people who feel that executive clemency should be awarded to them.
Q Isn't it a fact that the Supreme Court of the United States in a 6-3 decision said that this defendant Darcy did have a fair trial? Did they not so hold specifically?
A I would like to see the decision before I subscribe to that.
CHAIRMAN TOMPKINS: Because of the fact that a number of questions have arisen here that make it necessary that this witness get some material in her files in order to be properly able to answer, we will take a luncheon recess for one hour.
Will that give you enough time, Miss Blatt?
THE WITNESS: Some of these matters are not in my file, for instance, the decision of the Supreme Court is not in my file. The only thing I have in my file is a brief which I would be able to get.
CHAIRMAN TOMPKINS: Could you get that brief that Mr. McCloskey left with you?
THE WITNESS: If I have retained it, I will certainly get it.
CHAIRMAN TOMPKINS: All right.
(Recessed.)

AFTERNOON SESSION

BY MR. KOHN:

Q Miss Blatt, have you read the opinion of the Supreme Court of the United States handed down on June 11, 1956?
A Yes.
Q Isn't it a fact that in that opinion the judges, 6 to 3, stated that Darcy had received a fair trial and that they were upholding the conviction?
A The majority of the judges said that they did not consider his trial was essentially unfair in a constitutional sense.
Q And in the commutation as set forth in the wording thereof, the Board did find that it was in a constitutional sense unfair, did it not?
A I don't recall that there was any such specific finding.
Q Did the Attorney General, Mr. Cohen, who argued against Darcy in the appeal before the Circuit Court of Appeals or the United States Supreme Court, ever disqualify himself from consideration of the matter of commutation?
A No.
Q Did that question ever come up?
A No.
Q Yet his position, despite the position he took before the United States Supreme Court and Circuit Court of Appeals, his position was exactly contrary in the matter of consideration of commutation before the Board of Pardons than it has been before the Circuit Court—
A I don't see any inconsistency in the Attorney General's position. As the chief law officer of the Commonwealth he was the proper person to represent the Commonwealth in appeals before the Federal or other courts or an appellate nature, and he did so, and questions of constitutional due process were raised in those appeals and he undoubtedly stated his opinion in regard to those questions. The constitution also makes him a member of the Board of Pardons, and as such he has to sit on cases which come before that Board, which may very well involve matters that had previously been within his jurisdiction as Attorney General. But I see no conflict in the two positions.
Q I see no conflict either, but aren't the positions incompatable and exactly controvert each other?
A I don't think so.
Q Isn't it a fact that he proposed specifically in the Darcy petition the fact that there was no hysteria present in the courtroom? Didn't he oppose that particular allegation by Darcy's counsel.
A I have not had an opportunity to review his pleadings before the Court. If you say that, for the purposes of argument I would grant it. I still don't see that that has anything to do with his sitting as a member of the Board of Pardons.
Q Isn't that the basis upon which the dissenting opinions that you quoted in the commutation were rendered, on the basis of those particular factual situations, that he was deprived of a fair trial by reason of the violation of his constitutional rights, on those particular reasons?
A The dissenting opinions were based largely on that feeling.

Q Didn't he take the stand and oppose those before the Circuit Court of Appeals and the United States Supreme Court?

A I am not in a position to say that he did or did not. I have not had an opportunity to review those proceedings.

Q Did you ever review those proceedings?

A I don't recall reviewing that part of the pleadings. Certainly I don't recall what the answer is to your question.

Q Do you know when the question of competency of counsel was raised for the first itme?

A Which counsel?

Q Counsel that represented Darcy at the trial of the case; do you know when that was raised for the first time?

A No, I do not.

Q Didn't you read the record?

A I read the record, Mr. Kohn, but I simply don't recall the answer to that specific question.

Q Did you know that the Attorney General, Thomas McBride, had argued this case before the Supreme Court of Pennsylvania?

A I understand so.

Q Do you know whether he ever raised the question of competency of counsel for the defendant?

A I do not.

Q Was that contained in the Supreme Court's findings?

A It may very well be contained there, and if it is I would be glad to have you point it out to me. I might say had I known I was to be called this morning and that the whole case was to be developed from my testimony, or at least a large part of it, I would certainly have reviewed it much more in detail because I would like to be helpful, but I can't out of memory recollect a lot of these details right now.

Q Do you know that the Attorney General had assisted in the trial of this case originally, in the Bucks County Court, by advising the counsel who actually tried it for the defendant?

A I did not.

Q Do you know whether or not counsel for the defendant was one that was assigned to him by the Court, or one which he hired voluntarily by himself?

A I was of the impression he hired counsel himself.

Q And do you know whether or not counsel in the trial of the case examined each particular juror on voire dire to find out whether he was biased or whether he had any facts which might disqualify him?

A I don't recall that that was done. I would assume it was but I don't recall.

Q And did you know that in the trial of the Darcy case he was represented by Mr. Achey, who is an outstanding member of the Bucks County Bar?

A I certainly do.

Q Did you consider him competent counsel?

A I had never heard of Mr. Achey before the day that this matter was brought to the attention of the Board of Pardons. I don't know him now. I know nothing about him except what was said there. I might just say, as a lawyer, reviewing his conduct of the case, it seems to me to have had certain inexplicable omissions, but if he was trying it and was a competent lawyer, I assume he knew what he was doing. I think I would have tried it differently.

Q Did anybody ever make any statement in pleading the case before the Pardons Board that he was competent or incompetent?

A The only statements I recall hearing were to the effect that he was a competent lawyer.

Q I suppose you regard Mr. McBride as a competent lawyer?

A I certainly do.

Q I think we all do. Did you know that many of these things that you considered, these constitutional questions, were not raised at all by Mr. McBride before the Supreme Court of Pennsylvania?

A I do not so recall.

Q You don't know that?

A I don't recall it. I simply have no recollection one way or the other.

Q Do you know that many of the facts that were propounded to the Circuit Court of Appeals and United States Supreme Court were not raised until three years after the case had been tried and decided by Mr. Margiotti and Mr. Witkin? Do you know that?

A I do not know it.

Q Do you know that they waited until after Mr. Achey died to raise the question of his competency as counsel?

A I do not know it.

Q Did you read from the record that they waited until Judge Boyer was very ill, until they raised the question as to his participation in the trial?

A Well, Mr. Kohn, the record may very well disclose that the date of a certain action is such-and-such and that that date was after another date on which a certain action occurred. But whether there is any connection between the fact that there was a waiting period involved, and neither you nor I, I think, is competent to judge—

Q What I am trying to find out is whether or not it wasn't significant to you and the other members of the Board that many of these factors that were raised upon which you base your question of commutation, about his having not received a fair trial, whether or not you observed or other members of the Board, that they were not raised until many years afterwards, until many of the parties thereto were dead?

A I did not observe that, and so far you have only mentioned one party who has died.

Q Judge Boyer is dead, too.

A Well, he didn't die until recently.

Q So did Mr. Achey, he died some years ago.

A That may be. But it did not impress me as of any consequence.

Q Did you know that both of those questions were raised after both men involved were dead, by Mr. Margiotti?

A I didn't know it.

Q Did you find out from reading the record?

A I did not observe it.

Q Did you find it in the statement of the Supreme Court?

A I did not.

Q Do you know whether Mr. McBride ever raised either one of those questions?

A I do not know.

Q You are familiar, you say, as an attorney, with legal trial procedure. Do you think that the court, under the law of the land, could grant any more fairness than to

have a defendant's counsel examine each juror to find out whether he is fit to serve, whether he is prejudiced or whether he is not? You are familiar with that procedure, are you not?

A I certainly agree with it.

Q And you know that in the Darcy case the defense exercised 10 of its 20 peremptory challenges?

A I don't recall it.

Q That was in the record.

A I don't recall it, however.

Q There was a great deal of wind created by Mr. Margiotti in regard to the newspaper articles in the case; did you read about that?

A I recall reading references to the newspaper articles.

Q In your consideration of this case did you at any time believe that those newspaper articles influenced the jurors who were considering the Darcy case? Did you come to that conclusion?

A I think they may very well have influenced the jurors.

Q Did you know the jury after it was selected, was locked up and kept incommunicato until after the trial, the newspaper articles introduced by Margiotti did not appear until after they were locked up?

A That may be; however, there were newspaper articles before the period of the lock up, that may very well have influenced them.

Q Do you recall Mr. Freed who represented Foster, making a statement before the Board of Pardons in his argument in which he said that he did not think there was any hysteria or any effect on the jury by anything that had gone on previous to the trial?

A I don't recall that precisely. I will say the only thing I do recall, and I made a note of it at the time because it struck me forcefully, Mr. Freed said in his opinion at the time that Judge Boyer was a sick man. Those were his exact words.

Q Do you know how long he was sick before that?

A I don't know.

Q What was the significance of that upon you?

A That Judge Boyer, had he not been in Mr. Fried's opinion a sick man, in other words, not acting rationally, as a well and able—

Q Are you saying now there is something in the statement of Mr. Fried that Judge Boyer was not in rational or full consciousness when he tried this case?

A Oh, no.

Q I didn't want to misunderstand.

A But Judge Boyer did not at this time have the faculties in the fullest sense in which Mr. Fried as a member of that bar had noted him to have previously.

Q Did Mr. Fried say that?

A To the Board of Pardons.

Q Before the Board of Pardons?

A That's right.

Q And you took that without any further investigation as being a fact?

A No. I just took it as a statement as being Mr. Fried's opinion.

Q Is this Board going to go into the statements of counsel and take them as a fact and then consider them and grant clemency upon them?

A As I see it, Mr. Kohn, the Board of Pardons has to listen to everything that is said to it by everyone who properly appears before it; and in reaching its decision, it must give what weight it thinks is proper to all the things it has heard. It has to consider everything. Some things it may have a negative consideration; to some things a posititve. Some of those it considers positively, it may consider to a lesser or greater degree; but everything has to be considered if we are going to be fair as we are trying to be.

Q I notice in the DiVito case you gave a great deal of consideration to what Mr. Lord said as to political implications. You gave that a great deal of weight in setting forth the finding of the Board in recommending clemency for DiVito. Is it the usual matter for the Board to consider factors which are important in arriving at a decision for clemency without making any check on it?

A As I said, it is the usual matter for the Board to give full consideration to everything that is said to it and to weight it on its scales.

Q How can you weigh something that is a one-sided self-serving declaration on the side of the applicant without having checked it?

A I personally feel that when a lawyer comes before the Board he is an officer of the court he is going to deal fairly with the Board. In the absence of any evidence or charge by the district attorney or the opposing counsel, as the case may be, that something has been said that is wrong, I accept it as right. If it strikes me even in the absence of a charge as something that is incredible or beyond my beliefs, I reject it.

But on the fact of it, the ordinary statement that a lawyer makes to the Board, I would be prepared to accept it.

Q Isn't it a fact that in allowing a commutation from a death sentence to a life sentence there should be a great deal more care exercised in taking the statements at their face value even though they might not be contradicted?

A You are a hundred percent right, and I couldn't emphasize how very carefully I personally—and I personally try to be extra careful on every case, but more particularly on these capital cases, where we are thinking of commuting a death sentence.

Q At the time you considered the Darcy case, were you aware of the fact that Attorney General McBride had participated in this case?

A When it was before the Board of Pardons?

Q Yes.

A Frankly, I was not very much aware of it. I recognized his name as appearing among counsel on one of the appeals, but it didn't register with me very dramatically.

Q Did you then have knowledge of the fact that J. Dress Pannell, personal counsel for Matthew McCloskey, had also been active in the case? Had that name also registered with you?

A I noticed that name also.

Q Did that mean anything to you?

A No particularly.

Q And had you known Mr. McCloskey had been interested—I think you so testified.

A I knew Mr. McCloskey had presented me with the brief, as I said previously.

Q You knew he had been interested in it?

A I think I did, yes.

Q There had been plenty of newspaper articles on it.

A Oh, indeed, yes.

Q Do you know whether or not these boys had any previous criminal record?

A I am not aware of any.

Q Do you know how many persons were shot during this series of hold-ups that Darcey was engaged in?

A You mean during this particular Feasterville incident?

Q I am referring to just a few days before that. How many robberies? How many people had been shot?

A My recollection is hazy. I think there may have been 5 hold-ups.

Q No. I am talking about people who were actually shot.

A People shot? I do not know.

Q Did you not look at the record?

A I looked at it, but I don't recall at the moment. I do recall that when I first heard of the case or when I first came before it, I was under the impression that these were men of a long criminal record, who had done a long series of criminal acts, and I was rather surprised myself, to find that their criminal career as such extended over a very brief period of several weeks.

Q About 3 weeks; wasn't it?

A About 3 weeks.

Q In all cases they were hold-ups with guns.

A I believe so.

Q And in some cases there were some persons shot?

A (no response)

Q 7 people.

A I don't recall.

Q And you don't at all contend that they were not guilty of the brutal crimes as a result of which people died.

A Not at all.

Q You were, of course, Miss Blatt—I am not trying to be facetious—but you were aware of Mr. McCloskey's position in the Democratic Party at the time you decided this case?

A Yes, I was.

Q And he expressed an interest in it to you?

A He had done only what I have testified, which was to come to see me on that one occasion, approximately a year before the occasion ever came to the Board of Pardons. He never discussed it with me while it was before the Board of Pardons at all.

Q Did you ever talk to Irene Ford?

A I never did.

Q Did you ever talk to Mr. Pannell about it?

A I never did.

Q How about Mr. Margiotti?

A I never did.

Q Witkin?

A I never did.

Q Did anyone else on behalf of Darcey contact you and talk to you?

A No one.

Q You say you ran and—

A I beg your pardon. I did testify this morning that Reverend Lenhart contacted me in regard to Zietz, but it was an isolated case.

Q What year were you elected?

A 1954. I took office in 1955.

Q You were familiar with McCloskey's position in the Democratic Party?

A Yes, indeed.

Q What was his position?

A At that time?

Q Yes.

A In 1954?

Q No, I mean when you considered this case.

A Mr. McCloskey was in 1956 the Treasurer of the Democratic National Committee and the Chairman of the Democratic State Finance Committee of Pennsylvania.

Q And in 1954 he was engaged in raising a half-million dollars on behalf of the Democratic State Finance Committee when you ran?

A He was the Chairman of the State Finance Committee when I ran.

Q And Mr. McCloskey contributed approximately $6000 of his own money at that time, did he not?

A I don't recall.

Q Do you know whether or not Harry Halloran, who wrote to the Board of Pardons in connection with the McSorely case, from Delaware County, contributed $2,000?

A I do not know that.

Q Didn't you see the campaign returns?

A I saw them.

Q The contributions?

A I saw them, but I specifically don't recall those contributions that you mentioned.

Q Do you recall the name of Alden W. Phelps, who is alleged to be the County Chairman of Erie County, contributing $2,900, who was interested in the Kauffman case?

A I do not recall.

Q Did he talk to you about the Kauffman case?

A No, he didn't.

Q Do you know anything about James Morrisy, who is connected with Mr. McCloskey, being a contributor?

A I do not.

Q Do you know that Mr. J. Dress Pannell contributed $5,000 to the Democratic Party?

A I do not. I wouldn't deny any of these things because several of the people you mentioned are known to me as contributors to the Democratic Party, and they undoubtedly did contribute; but whether they contributed in those amounts I do not remember.

SENATOR YOSKO: Mr. Chairman, whether somebody contributed to the Democratic Party or the Republican Party isn't material here unless Mr. Kohn can show that the contributions made were in consideration of a favor of some kind from the Pardons Board. Unless you can show that, I say your questioning is out of line.

CHAIRMAN TOMPKINS: We will leave the information go in for what it is worth.

MR. KOHN: I have no further questions of Miss Blatt.

BY SENATOR YOSKO:

Q Miss Blatt, have you—how long have you been connected with the Democratic Party?

A With the Democratic Party?

Q Yes.

A I have been a member of the Democratic Party since I became of voting age. I have had official positions in the party at various times in the past.

Q And did Mr. McCloskey make contributions to the Democratic Party prior to the Darcy case?

A As long as I have known anything about Democratic politics in Pennsylvania, Mr. McCloskey has been one of the leading contributors to the Democratic Party.

Q Do you know of any contributions that Mr. McCloskey or anybody else made for the purpose of influencing you or any other member of the Pardons Board in the Darcy case?

A Positively not.

Q Or any other case that came before the Board of Pardons?

A Positively not.

Q Miss Blatt, how old were the 3 or 4 defendants in this Darcy case at the time the crime was committed?

A I am a little hazy on that, Senator Yosko. My recollection is that Darcy himself was about 21; that one of the men, I think, perhaps Foster or Zietz was about 23; the other one about 19; and Capone about 17.

Q Do you have the date that they were sentenced there?

A I don't know that—well, yes, I guess I do. February 16, 1949 for David Darcy.

Q And when were their sentences commuted?

A In 1956.

Q And that was for how many years it went on between the time they were sentenced and the time the sentences were commuted?

A It would be about 7 years, I quess.

Q How many reprieves were granted to any or all of these defendants during that 6 year period?

A I am sorry, I don't know the exact number. Twenty some, but I am uncertain.

CHAIRMAN TOMPKINS: The present record, as I recall it, indicates that Darcy had 23, and that Zietz and Foster had 27; but they are unable to explain the difference between the numbers, except that the execution for Darcy was not fixed quite as often as it was for Zietz and Foster on account of Darcy's case coming up in the courts.

BY SENATOR YOSKO:

Q In any case, if we don't have the exact number of reprieves that were granted, they were granted by who?

A By the Governor in office at the time.

Q Who were the Governors in office at the time the reprieves were granted?

A Well, the first reprieves, I suppose, would have been in 1949, at which time I believe Governor Duff was in office.

Q Does the record show how many reprieves Governor Duff gave to any or all of these defendants and the number that Governor Fine gave to any or all of these defendants?

A I am sure the record shows that. I don't have that myself.

SENATOR YOSKO: Mr. Kohn, do you know that?

MR. KOHN: There were over 20.

CHAIRMAN TOMPKINS: The total number was 23, according to the records of the Rockview Prison.

MR. KOHN: Well, sir—

ATTORNEY GENERAL McBRIDE: We will get that accurately for the Committee.

THE WITNESS: The only thing I do recall was Reverend Lenhart's testimony that there were 4 reprieves within the first week that these men were in the death house, and he testified that he had personally prepared his particular communicant, who I think was Mr. Zietz, who belonged to his church, he had prepared him for death 4 times that first week, at the end of which he, Reverend Lenhart, was so emotionally exhausted by the ordeal of having gone through this 4 times in one week, that he asked for and obtained a leave of absence in order to recuperate.

BY SENATOR YOSKO:

Q How many times were any or all of these defendants prepared for execution during the period they were in prison?

A I can't answer that categorically. I assume every time there was an execution date set they were prepared for execution on that date.

Q Were any of the reprieves granted by Governor Leader?

A I think that the last few were during the course of the last proceedings to the Circuit and Supreme Court.

SENATOR YOSKO: I wish somebody, either Mr. Kohn or somebody from the Pardons Board, would give us that breakdown.

THE WITNESS: I will certainly see it is prepared for you.

BY CHAIRMAN TOMPKINS:

Q I think you will find if you go through the record that these men although they were granted all these reprieves were only prepared for the death house on 3 different occasions.

A I recall Reverend Lenhart's statement that he had prepared his communicant 4 times. Whether there were any preparations subsequent to that for him or any of the others I can't testify.

BY MR. KOHN:

Q While we are on the matter of reprieves, that isn't the matter of the right of the Governor; that is followed by the order of the court; is that right?

A That's right.

Q When an appeal is taken, they get a supersedious order of reprieve and each Governor follows that as a matter of course under the law; is that right?

A I am sure that any Governor, knowning that there was a case pending before an appellate court, would grant a reprieve until that was decided.

BY SENATOR YOSKO:

Q You said at least 4 times, on at least 4 occasions, that either one or all of these defendants were prepared for execution. As far as punishment is concerned and in considering whether a communtation should be granted or not, was that one of the factors considered by you, so far as punishment is concerned?

A Yes, that was considered by me and weighed rather heavily with me.

Q Miss Blatt, did your decision or was your decision influenced in any way, shape, or form by political consideration?

A No, indeed, it wasn't; but I would like to make this statement in that connection, Senator Yosko.

When I made the decision I anticipated that it would be questioned as it is being questioned here today, and if I had been motivated by political influences, I would not have voted as I did because I would know that I and other members of the Pardons Board would be subject to the criticism in some quarters, as indeed it had been intimated in the Philadelphia Inquirer that we would be, that we were granting this commutation out of some desire to do a favor for some political friend of ours.

That was the farthest thing from my thought I personally leaned over backward in my reasoning and thinking and I might say even in my praying that I would not be influenced by the friendship that I readily admit that I have had for a long time with Mr. McCloskey. I think he is a fine, estimable man. I think the interest he took in this case is open to no question by any source. He had every right to take the interest he seemed to have, it seemed to me. But I did think that an adverse effect would result from granting clemency by any governor on him, and my part, too, but it seemed to me that I had to follow the dictates of my own conscience, whether in so doing I was hurting my party or helping my party. I had to do what I thought was right and I could not have slept another night if I had not voted to keep those three boys from the death chair.

Q I assume you are familiar with the activities of the previous Pardon Boards and of cases that might have been commuted from the death sentence to a sentence of life imprisonment, am I correct in that?

A I am familiar with them in a general way, yes.

Q Was the commutation in the Darcy case from death to life imprisonment established by the Pardon Board of which you were a party?

A No. As a matter of fact, we had testimony here regarding the Paul Perry case from Bradford County, which seems to me very similar, a case of a man who had a sentence commuted from death to life. In fact, the Perry case is even stronger because there was apparently a premeditated murder, not a murder committed in the course of a felony, but a premediated murder of a woman by her husband; and in that case the man was commuted from death to life by the Pardon Board. I don't criticize them for doing that, but I just point out that that is an indication certainly among others that the Darcy case is no precedent.

Q But there were cases that came before the Pardons Board where a death sentence was commuted to life?

A Yes. We have had several such cases before this Board, and I know there have been many before other Boards.

BY REPRESENTATIVE LOPRESTI:

Q Miss Blatt, there was a question asked of you by Mr. Kohn referring to the number of pre-emptory challenges used, and I guess it was implied that since none of them were used, there would be no projudice in the community. Isn't it a fact that if they were used, they would be used for cause?

A It is quite possible, yes.

Q And isn't it a fact that you will as a lawyer use those charges for cause rather than pre-emptory—

A Certainly.

Q So the fact that there were ten unused challenges would certainly not indicate that there were no prejudices in that community?

A Certainly not.

Q Or that the lawyer hadn't done his duty?

A No.

Q All right.

A I might say, Mr. Lopresti, that the jurors in this case were subsequently polled and they made written replies, and at least eleven of them did, and this polling took place in 1951, and they said if they had an opportunity to rehear the case and if evidenec were presented as to the prior record or lack thereof and the character of these boys, that they would not have voted for a death penalty, but only for life imprisonment. That is a part of the record, and I think it is very interesting evidence.

Q Did the Board have that information?

A Yes.

Q Now, Miss Blatt, would you as a member of the Board of Pardons allow stories, comments, and things such as that to influence your decision on any case?

A No, I would not; but I would say that that was the source of constant barrage of attempted influence throughout the course of the hearings, throughout the course of our deliberations, and since from a certain newspaper.

Q Did you consider newspaper editorials and stories as an attempt to influence the Board in not granting a commutation?

A I would not like to ascribe motives to a newspaper or any individual; but I would certainly think they could be considered as an attempt to influence the Board.

Q At any rate, you have testified that you would not allow them to influence your decision.

A Positively not.

Q Now, there have been some questions asked about dissenting opinions. As a lawyer, do you consider dissenting opinions as having some merit?

A I certainly do, because, not only as a lawyer, but as some students of jurisprudence, I have seen so many dissenting opinions of one year becoming the majority of opinions of some subsequent year; and any lawyer must be familiar with dissenting opinions as well as majority opinions to be aware of the course of the development of the law.

Q And wouldn't dissenting opinions be of more particular value to members of the Pardon Board than to the ordinary lawyer?

A I think so.

Q And their decision, even those dissenting would have some merit that could be considered by a Board of clemency.

A That is right.

Q And I notice Mr. Kohn also asked you whether you read the dissenting opinions of Judge Musmanno. Have you during your course of study read the dissenting opinions of Judge Brandeis?

A I certainly have.

Q As a matter of practice among lawyers, aren't those opinions considered today, most of them, to be the law of the land?

A They are.

BY MR. KOHN:

Q Did any of Judge Musmanno's decisions become the law of the land?

A Not yet; but I assume some of them will, Mr. Kohn.

BY CHAIRMAN TOMPKINS:

Q You don't contend that the dissenting opinion is the law of the land when rendered?

A No, sir, I do not; but as Mr. Lopresti said, when we come to matters of granting clemency, the fact that three learned judge out of seven, or four out of nine, have held that a different course of action shoud be taken is something that a Board of Pardons, which is interested in granting complete and full justice, regardless of any legal technicalities that may have barred a judge from reaching a certain decision, they have to take those into consideration and weigh them.

Q This morning the question came up about some brief that Mr. McCloskey left with you. Are you able to find that?

A Yes. And I am sorry to say I have to correct myself. It was not a brief. It was an opinion of the United States Circuit Court of Appeals for the Third Circuit which we had there on the table. But this was a pamphlet copy of which he left with me and which I read.

Q What case was that?

A In this Darcy case.

Q Number 11564, Circuit Court of Appeals?

A Yes. And in the interest of completing the record, I also had in my office a copy of the brief filed by Mr. Witkin for himself and Mr. Pannell and Mr. Margiotti before the Board of Pardons in 1956, when the case was tried.

Q I have that. This brief indicated it was argued on April 4, 1955, and the opinion filed on June 9, 1955.

A Yes.

Q So it must have been some time after June 9, 1955, that Mr. McCloskey handed this to you.

A I have so testified. My recollection was that it was late in 1955.

BY MR. KOHN:

Q You seem to have a vivid recollection of the quotations of witnesses before Judge Murphy in the District Court. Did you read that part of the case in which the letters from the jurors were procured?

A I don't recall reading that particular part of the case. Where I read the references to the letter, Mr. Kohn, was in this brief which was filed with us, and I have since seen photostatic copies of the letters which were filed with the Board of Pardons.

Q Do you know what the Court said about that? Did you go any further other than taking a look at what Mr. Witkin gave you to find out about that?

A Yes. Of course. The court did not take these matters in because it didn't feel it had the Constitutional right to do so, and I don't quarrel with the Court's decisions on the matters of law.

Q That made a profound impression on you?

A The letters did?

Q Yes, the fact that they testified as they did.

A The letters of the jurors did make an impression upon me, yes.

Q Mr. McBride just gave these to you; is that correct?

A Yes. I have seen them previously, though.

Q Didn't this say that if some defense or character witnesses would have been presented at the trial, they feel that there would have been a change in the verdict arrived at? "If I personally had the information about his reputation and character at the time of trial which I have now, I would have voted for life imprisonment rather than the death sentence;" isn't that what is says?

A Yes.

Q Isn't it a fact that these letters were procured by his brothers, and these jurors were contacted?

A I couldn't tell you.

Q Do you know that these jurors had turned down similar requests in Bucks County to save the life of a prisoner?

A I do not know anything except the fact that these letters were received.

Q Do you know what questions were asked to get these or do you know whether they were contacted by Joseph Darcy or someone in his behalf?

A I have no idea, Mr. Kohn. All I testified to was I saw the letters.

Q And they are all addressed to To whom it may concern.

A I wouldn't want to testify to that. That is my recollection.

CHAIRMAN TOMPKINS: May I see those a minute?

(Letters passed up to the Chairman)

BY MR. KOHN:

Q Isn't it a fact that it was a matter of defense counsel to decide whether or not he was going to put any witnesses on in behalf of the defendant on the stand as a matter of planning and strategy at a given time when a man's life hangs in the balance; isn't that right?

A That's right.

Q And what you are saying now is that had deceased counsel done differently, the outcome might have been different?

A I believe that is what it amounts to.

Q And isn't it a fact that if he put them on the stand, the district attorney would have torn them to pieces by confronting them with their records?

A I don't know.

Q You know the fact that they had committed holdups over three weeks and shot seven people?

A They had no record prior to this.

Q You say when they engage in a series of crimes over a period of three weeks and shoot seven people that that isn't admissible?

A All I will say, Mr. Kohn, is that neither you nor I nor anyone can tell what would have happened if—

Q I agree with you, and isn't that all the more reason that if gotten statements are procured as to what an attorney might or might not have done, he is the one who is faced with the problem, including Mr. McBride, including what they should or should not do as to save the man's life?

A No. The Board of Pardons is confronted with the situation as it was in 1956, which boys who have been in the death house since 1949. Then they are confronted with the fact that at least eleven of the twelve jurors

now say that if they had known something at the time of trial which they didn't know then and do now, they would have voted for life imprisonment instead of a death sentence.

Q Is the Board of Pardons going to adopt the policy that after each capital case is tried, the jurors are to be polled and that letters are to be gotten from them like that, that if the lawyer did something he didn't do in his good judgment, Mr. McBride was in that case—

ATTORNEY GENERAL McBRIDE: You keep saying that. To what extent was I in it? To what extent did I advise.

MR. KOHN: It says you were consulted.

ATTORNEY GENERAL McBRIDE: What does it say?

MR. KOHN: I will show it to you.

ATTORNEY GENERAL McBRIDE. Go ahead. But let us have it out on the table. I was never in Bucks County at that trial.

MR. KOHN: No, but you were advising; that is what the thing says. The Federal Court says you were advising in the case.

ATTORNEY GENERAL McBRIDE: What Federal Court?

MR. KOHN: I will give it to you.

BY MR. KOHN:

Q Do you think the basis in each particular case where a capital case has gotten a death penalty sentence, that this should be part of the consideration on the part of the Board of Pardons?

A I am not in any position and I am not going to take the position of saying what the Board of Pardons policy will be in any future case or will be in any general run of cases. I am only saying that in this case we were told that a poll of jurors was taken and that eleven had written letters stating that they would decide differently if they had to do so; and if we are faced with the decision as to whether three men will die on Monday night or live the rest of their lives in prison, we have to take all the statements that come before us; and the letters of the eleven jurors seemed to me to be very persuasive.

BY SENATOR SCOTT:

Q When were those letters presented to you?

A They were originally presented at the time the original hearing was requested before the Pardons Board. But when I saw reference to them was in the brief which was filed by the attorneys for Mr. Darcy at the time of their appearance before the Board of Pardons in 1956, where they are summarized in the brief.

BY CHAIRMAN TOMPKINS:

Q These were filed with the prior application?

A I understand that they were filed in 1951 with the Board of Pardons. Personally I did not see them in the Board of Pardons' file, so I cannot testify to that All I know is I saw the reference to them in here.

Q They are in the Board of Pardons' file because I saw them.

A They are?

Q And they were in the Board of Pardons' file at the time the case was first considered. So apparently—

A I doubt, Mr. Tompkins, that they could have been when they were first considered, because I think the first hearing was in 1950; but it may have been reconsidered subsequently.

Q They are in the files anyhow. I saw them, the originals of them.

A (No response)

BY REPRESENTATIVE BELL:

Q Miss Blatt, having these letters in front of the Board of Pardons, isn't that setting up a dangerous precedent? I want you to make a statement. I am not trying to trap you on this question. In other words, in every murder case, aren't you opening the door for relatives of the murderer to go and visit the jurors after the verdict and seek to get letters like this and put pressure on them?

A I suppose that every time that an applicant would come before the Board of Pardons seeking clemency, he would do everything he could to help his case; and if he knew of such a precedent, he might follow it. But I don't see that the Board of Pardons can do anything else but to consider everything that is brought before it, particularly in a capital case where a matter of life and death is involved.

Q Well, it also would stand to reason that it might be good practice when letters are received like this to find out if there was any pressure used on the jurors to obtain the letters, would it not?

A I would be very interested to know that, yes; but the Board of Pardons, as you know, does not have an investigative staff. I can't tell you, since this was in 1951, whether there was any investigation or not. I don't know today whether there was any pressure brought. I know this, that I have never heard until today any mention that there was pressure. If there was, then there was; I have not heard it previously.

BY CHAIRMAN TOMPKINS:

Q Miss Blatt, do you know how many times David Darcy took the stand in his own defense?

A I don't think he did at all, Mr. Tompkins.

Q Do you know whether or not he was ever given an opportunity to say anything on his own behalf?

A I don't recall that he was, although I am sure that he could have if he had wanted to, if his attorney had put him on.

Q Do you know that in the hearing before Judge Murphy in the District Court, Judge Murphy himself invited Mr. Darcy to make any comments that he would care to make if he cared to make any in his own behalf.

A I don't know if he did.

Q And he refused to say anything in his own behalf.

A And he refused to say anything in his own behalf?

Q Yes. It is in the report.

Mr. KOHN: I have it.

A I don't remember seeing it.

MR. KOHN: I have it here. May I ask one more question?

CHAIRMAN TOMPKINS: Yes.

BY MR. KOHN:

Q You put a great deal of significance on the fact that these letters state that had Darcy taken the stand, the decision might be different. Did you know that the Circuit Court of Appeals, in remanding these cases to the District Court for rehearing, ordered that all this be

stricken from the record as improper and inconsequention?

A I don't recall it, but I wouldn't doubt it one bit because the Court here has very limited and narrow questions before it, for example, as to whether or not there has been due process of law followed in the trial; and they felt they couldn't say that within those narrow limits that there had been a denial of due process. But I think that the Board of Pardons has a much wider scope of inquiry, and that the Constitution so intended it to have; and having taken that wider scope and felt that these defendants had not actually had the fullest play of justice, we recommended executive clemency.

Q If you do have a wider scope, why didn't you exercise it? Why didn't you take these letters which had been thrown out in court and start investigating some of them?

A Mr. Kohn, as I said in regard to another factor in my testimony—

Q I am talking about this factor.

A I am going to relate it to these letters. Neither these letters nor any other one single factor was controlling in reaching any decision; nor do I think it was inreaching the Board's decision, but all of them played some small part in our reaching a conclusion that here was a case where executive clemency was called for.

Q You haven't read this record very carefully have you?

A I read it very carefully at the time of the hearing. I would have read it extremely carefully last night or this morning had I had any idea that you were going to try to put the case on the record through my testimony I am extremely sorry I am not more intimately acquainted with it. But I did read it carefully at the time.

Q Didn't you notice, as Mr. Tompkins stated, the part of the record where it is stated by Judge Murphy: "We noted that the defendant, David Darcy, has been in this courtroom throughout the beginning of this proceeding, throughout this proceeding, every minute, and we now direct this question to David Darcy himself, the defendant. Mr. Darcy, is there anything you have to add to what has been said throughout this proceeding, anything you want to add on your own behalf? You have a right to testify as a witness. You have a right to take the stand. You can tell this Court anything that will add light on this proceedings.

What is your wish?

"BY DAVID DARCY: No. Your Honor."

Now, Darcy had a chance before the—excuse me. I want to finish what Judge Murphy said.

"You don't desire to add anything to what your lawyers have done or what has happened in this Courtroom?"

"No, Your Honor."

He had a chance to testify and refused again. Now that second basis of his refusal, did that receive any consideration in your commutation?

A It didn't receive any great consideration from me for this reason, that I assumed that when this man is before the Federal District Court, he is acting under the advice of counsel and without being told to testify, he might hesitate to do so.

Q Wasn't his counsel in this case just as negligent as his original counsel was in the original trial of the case where they refused to put him on? What is the difference?

A I would prefer not to go into any criticism of counsel.

Q All right. So that the deliberations of the Board of Pardons, according to the record of the Board of Pardons, during the hearing of this case and sixty-nine other cases that morning, you concluded that and came to a decision that same day, according to the record of the Board of Pardons on September 20th.

A According to the minutes, that is correct. I have testified, however, that I personally did not feel that a final decision was reached on that day.

Q Do you have anything to prove that?

A No, I don't.

BY CHAIRMAN TOMPKINS:

Q Miss Blatt, do you know or do you recall what number you were of the Members of the Board who signed the commutation? Was that signed by all four of you together or was it circulated among the four members at different times and places?

A It was circulated, but I don't recall in what order I signed.

Q Do you remember whether you signed first, second, third, or fourth?

A I believe that the Attorney General had signed before me, and I say that because he ordinarily does. When the papers come around, they ordinarily have gone first to the Attorney General, and then either to me next or one of the other Members next; but whether one of the other Members preceded me in this case I don't recall.

Q I think the reasons indicate that there was some division of opinion among the Members of the Board in connection with some phases of this commutation. Between whom were those differences of opinion, Miss Blatt?

A As I recall, it was mostly, if not exclusievly, between the Attorney General and the other members, the Attorney General having taken part in the appeals to the higher courts, was not in a position to and did not want to say that there had not been a fair trial granted. That was the only difference of opinion that I know of.

Q Who raised that question? The Attorney General himself, or some other Member of the Board? The Attorney General himself, or some other Member of the Board?

A As to the trial?

Q As to his participating in these proceedings?

A Not as to his participating; I mean in taking a consistent position with regard to his position in the courts to the effect that the trial had been completely fair or not. I am reading something into the Attorney General's mind that I don't recall him stating in so many words, but where the commutation refers to a difference of opinion, that is the only one I can recall among the four of us, that the Attorney General did not feel he could subscribe to an outright statement that the trial had not been a fair one.

Q Because he had previously taken a contrary position; is that right?

A Well, because I presume he did not believe it previously, and had taken a contrary opinion; but he would be a much better witness than I. I shouldn't really testify to something that was in his mind.

Q Do you know, Miss Blatt, when these three men were taken out?

A I don't know the date, no, Mr. Tompkins.

BY MR. KOHN:

Q Was it in 1950 or 1951, do you know?

A I don't have the slightest idea of the date. I am sure the record would disclose it, but I don't remember it.

Q Where were these men confined at the time that you state that some chaplain had been with them on several different occasions? I think it was within three or four times a week while they were being prepared for execution.

A They were at Rockview.

Q They were at Rockview at the time?

A Reverend Lenhart was the chaplain at the time, although he no longer is.

Q That was some time shortly after they were sentenced?

A I recall that it was sometime around 1950. I am not at all clear about that.

Q Do you know whether or not counsel for Darcy at the time of the trial asked for any change in the venue on account of any hysteria or prejudice in the community?

A I don't recall that he did.

Q Do you know how many of the jurors who were called in the Darcy trial had sat in the courtroom and listened to the Zietz and Foster trial?

A I do not recall one way or another in regard to that. I do know, of course, that the trials were very close, one upon the other.

Q I think the record will disclose that one of them was challenged for cause because he had sat in the course of the previous trial. All of the other jurors had not been in the courtroom during the trial of any of the previous defendants.

Do you know how many applications for pardon had been filed in these cases prior to the one upon which this Board acted?

A One had been filed in 1950 in behalf of Darcy. There had been one filed in behalf of Zietz and Foster before this present Board, which we continued a number of times. I would have to check the records to see the date of that. We continued it without hearing because the Darcy matter was pending, and we thought all three should be heard together if and when Darcy in his proceedings would be concluded.

Q In reviewing, did you review the prior application at all, Miss Blatt?

A At the time of hearing?

Q Yes.

A Yes, not in great detail, but enough to see what had happened.

Q Do you recall anything that impressed you on that at all regarding the time that the matter was before the Board then?

A That was brought in 1950, which must have been either immediately after they went to Rockview or even before, if I have the chronology straight in my mind. In other words, it would have been based exclusively on the record of the trial and not on any intervening judicial decisions.

Q How long was the application pending before the prior Board before it was disposed of?

A My notes indicate that it was refused on March 20, 1951, which would have been about nine months after filing.

Q Do you know what was the cause of the delay in handing down any decision at all? Do you recall?

A There was some change in composition of the Board at some stage of these proceedings; whether it was here or not, I don't actually recall; but Lieutenant Governor Strickler was called into military service. There was some doubt as to his ability to serve as a Member of the Board. I think that there was a new Attorney General. Whether that has something to do with this delay or not I truthfully do not know.

Q Didn't Mr. Margiotti become an Attorney General in the meantime?

A That's right.

Q And there was some question about his right to sit on the Board, although he did file a withdrawal of his representation on Darcy's case?

A Yes. I think there was some doubt on his appearance, and the Lieutenant Governor. That would have been only two qualified members to sit, and I don't suppose the Board wanted to try to decide a thing that way. I don't recall, but the President pro tem of the Senate was agreed upon as a substitute for the Lieutenant Governor.

Q And his right to sit was challenged?

A I think so. There was quite a lot of challenging as to who had a right to sit.

ATTORNEY GENERAL McBRIDE: If I may suggest, it might be helpful if I submit this. I hold in my hand a list of various dates of applications, the Members of the Board of Pardons on each application, the action that was taken on each, and then it goes into the question of the membership and the President pro tem of the Senate being there—

CHAIRMAN TOMPKINS: This entirely on the Pardon Board set-up?

ATTORNEY GENERAL McBRIDE: This is entirely on this case of David Darcy, and it starts on June 4, 1950, and it lists the various times it came before every Member of the Board of Pardons, and who they were, and it ends up with the final granting.

If you think it would be helpful, I would be glad to have it marked, where you can look it over. It will be helpful to you, I am sure, as to dates and matters like that.

BY MR. KOHN:

Miss Blatt, there is one answer you made in connection with the answer to Mr. Tompkins' question that I didn't quite get the significance of. You say Zietz and Foster were scheduled for a hearing some time in 1956?

A No. They were not scheduled. One or both of them applied for a commutation, which the Board continued because we knew the Darcy pleadings were before the courts, and we wanted to know how they turned out before we would decide on the Zietz and Foster hearings.

Q Had you anticipated the Darcy would file another appeal?

A No, not officially; but we wanted to know what happened as to the Appellate Courts. Obviously, if the Supreme Court said he ought to have a new trial, there would have been a new trial.

Q Well, at that time the Board decided there was some connection between the commutation of Zietz and Foster and the Darcy case.

A Well, obviously, all three are involved in the same crime. We didn't want to have Zietz or Foster either executed while their confederate's case was still pending.

Q What ever happened to Darcy would happen to Zietz and Foster?

A Not necessarily, but we wanted to know what would happen before we decided what would happen to them.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, you asked if some of us woulld get together the dates for the various hearings. I have them for each one of the defendants.

SENATOR YOSKO: I wish you would—

SENATOR SCOTT: Before you do that, and I am perfectly willing that they be read into the record, but I would like to have some knowledge and I am completely ignorant as to just what a reprieve is. Who has the authority or the right to grant a reprieve and under what circumstances are such reprieves granted? I wonder if Miss Blatt can testify to that, or maybe we can get somebody to testify to it, because I am completely ignorant of just what the situation is as to reprieves.

ATTORNEY GENERAL McBRIDE: I would be delighted to tell you, but Miss Blatt is here and can tell us just as well.

THE WITNESS: I would prefer to yield to the superior legal of the Attorney General.

ATTORNEY GENERAL McBRIDE: My explanation would probably be wrong anyway, but we have a lot of different words like parole, pardon, commutation, reprieve. We sometimes use them wrongly and sometimes interchangeably, but a reprieve does not change the form of the sentence as does a commutation.

A commutation from the death penalty to life imprisonment changes the sentence.

A pardon obliterates the sentence.

A reprieve is simply a postponement of the execution of the sentence, and it may occur by pure executive action or at the suggestion of a court. A court, when it acts to halt the execution of a sentence, calls it a supersedeas. It is a right which the Court demands on occasional cases so as to preserve its jurisdiction. In connection with a death penalty, if the court is hearing a legal issue as to whether a man should live or die, obviously, it wishes to preserve its jurisdiction so that if it ultimately decides that the man should live, the execution of the death penalty shall not render its decision a nullity. So it grants what is called a supersedeas. When the executive power does the same thing, that is, postpones the execution of the judgment without changing the nature of the judgment itself, it is called a reprieve. And in these instances, the Governor from time to time, when the date of execution would draw near and where there appears to him to be sufficient reason for postponing that execution, he would reprieve the execution.

SENATOR SCOTT: All right. Now the sufficient reasons. The sufficient reason would be that there was an appeal pending in the appellate court?

THE WITNESS: That would all be considered to be a sufficient reason.

SENATOR SCOTT: And it would be considered to be very inhumane of a governor if he refused to grant such an appeal?

ATTORNEY GENERAL McBRIDE: Yes.

SENATOR SCOTT: All right. Go ahead and read.

ATTORNEY GENERAL McBRIDE: I would read first what refers to David Darcy.

In 1950 there were two reprieves. In the year 1951 there were seven reprieves. In the year 1952 ther were four reprieves. In the year 1953 there were five reprieves. In the year 1954 there were three reprieves. In the year 1955 there was one action by the United States Court of Appeals, which I would assume would be a supersedeas, and during that year that was the only time that the execution of the death sentence was interferred with.

In 1956 there was one action while the matter was pending before the Board of Pardons. I take that to be a reprieve.

That adds up to, Mr. Chairman, twenty-three, the number that you mentioned.

SENATOR SCOTT: Can I presume, then, in the particular case that you are citing that the reason for all of those twenty-three reprieves being granted for supersedeas being granted was that there were appeals being taken?

ATTORNEY GENERAL McBRIDE: Yes. Appeals, writs of habeas corpus, and appeals on writs, and in one instance the pendency of an application before the Board of Pardons.

SENATOR SCOTT: So that the executive branch of the government was certainly not doing anything unusual in granting those when appeals were pending?

ATTORNEY GENERAL McBRIDE: As you said, it would be unthinkable if the executive had not taken such action.

With respect to Foster and Zietz, the numbers that I cite are applicable to each. In the year 1950, two reprieves. In the year 1951, seven reprieves. In the year 1952, four reprieves. In the year 1953, five reprieves. In the year of 1954, three reprieves. In the year 1955, four reprieves. In the year 1956, four reprieves, making a total for each man of twenty-nine reprieves.

Now, as to each of them, at least subsequent to the Supreme Court of Pennsylvania's opinion on March 20, 1950, there were, as I understand it, no proceedings on appeal in a state or federal court on behalf of either one of them.

SENATOR YOSKO: When was that?

ATTORNEY GENERAL McBRIDE: The decision of the Supreme Court of Pennsylvania affirming the judgment of the sentence of death was on March 20, 1950.

CHAIRMAN TOMPKINS: What case was that?

ATTORNEY GENERAL McBRIDE: This was in Zietz's case.

CHAIRMAN TOMPKINS: There was an appeal to the Supreme Court?

ATTORNEY GENERAL McBRIDE: There was an appeal to the Supreme Court. Miss Blatt asked that the volume be brought to her. She wants it to read from it. So I have it in front of me. There is an appeal. Since you want the citation, the citation of—it is spelled here C-i-e-t-z. It is usually spelled Z-e-i-t-z. But it is spelled that way here. The citation is 364, Pennsylvania 294.

The Foster case is 364, Pennsylvania 288.

SENATOR YOSKO: Mr. McBride, when the Governor grants a reprieve, does he state a reason for the granting?

ATTORNEY GENERAL McBRIDE: I know of no requirements of law that compels the Governor to state a reason; but I have known of cases wherein a reason has actually been stated.

SENATOR YOSKO: Well, is it general practice with a Governor to state the reason for granting a reprieve?

ATTORNEY GENERAL McBRIDE: In a short form such as pendency of legal proceedings or something like that.

SENATOR YOSKO: And did you examine the reasons for granting of the reprieves in each, and the number of times you indicated?

ATTORNEY GENERAL McBRIDE: You mean despite the fact that there were no proceedings pending that Foster and Zietz were reprieved? I have not examined the record to determine whether any reason was stated. I shall do so.

SENATOR YOSKO: Please do.

SENATOR SCOTT: How does it get to that stage?

ATTORNEY GENERAL McBRIDE: In a general case, in my own experience, there was a death case in which a man sued out a writ of habeas corpus in one of the counties in Pennsylvania, and I was prepared, after he did it, to send a formal letter to the Governor, asking him to reprieve the sentence pending the disposition of that writ; but it turned out not to be necessary because the court which granted the writ a supersedeas. So there was no need of any Governor's action.

SENATOR SCOTT: Would I be correct in presuming that it is normal for the counsel for the defense usually when he has an appeal pending on a particular case and the time for the execution of the death sentence is growing nearer, he will ask His Excellency to—

ATTORNEY GENERAL McBRIDE: It would not only be normal, Senator, but any lawyer who had his opportunity to do that and had his clients killed without having it called to the attention of the executive authority—

SENATOR SCOTT: So in the normal situation it is brought to the Governor by the counsel for the defense?

ATTORNEY GENERAL McBRIDE: Yes.

SENATOR SCOTT: All right.

ATTORNEY GENERAL McBRIDE: It is difficult for me to answer the other part of your question as to how it was called to the attention of the Governor in the Foster and Zietz cases where there was no inquiry. I will look into it.

SENATOR YOSKO: Will you check the reasons if there are any given for the series of reprieves that were granted from the first one to the last one?

ATTORNEY GENERAL McBRIDE: All right.

CHAIRMAN TOMPKINS: General, you yourself, the letters are in the file of the Darcy case, you yourself wrote to Governor Duff on two different occasions requesting that he not fix a date for execution—

ATTORNEY GENERAL McBRIDE: I certainly hope I did.

CHAIRMAN TOMPKINS: I just want to call that to your attention. You wrote and asked that he not fix the date of execution because you were intending to take an appeal to the Supreme Court of the United States?

ATTORNEY GENERAL McBRIDE: That is right.

SENATOR SCOTT: While you are getting the information that Senator Yosko has requested, also see if there is something on each particular one, how it came to the Governor's attention.

ATTORNEY GENERAL McBRIDE: Surely.

CHAIRMAN TOMPKINS: Does the Pardons Board on occasions when they have a pardon before it transmit a note to the Governor in a capital offense case where there is an application pending and, therefore, they should grant a reprieve until the decision of the Board?

ATTORNEY GENERAL McBRIDE: If the Board of Pardons is having difficulty in reaching a conclusion or decision, it certainly would ask the Governor to reprieve the date of execution to give the Board more time to consider the case.

CHAIRMAN TOMPKINS: I recall seeing several of those notes in the files.

ATTORNEY GENERAL McBRIDE: Oh yes.

Again, a Board of Pardons that felt it needed more time would have to ask the Chief Executive to grant time to act; and any Chief Executive would do it.

CHAIRMAN TOMPKINS: Any further questions of Miss Blatt?

ATTORNEY GENERAL McBRIDE: Yes, I have some.

BY ATTORNEY GENERAL McBRIDE:

Q You spoke of two different clergymen, one of whom wrote a letter, and the other of whom appeared before the Board of Pardons. Were they both of the same religious faith?

A No. The writer of the letter, whose name I don't recall at the moment, was a Catholic priest, and he was the clergyman assigned to Mr. Darcy. The person who came to see me and who appeared before the Board was Reverend John J. Lenhart, who is the Pastor now of the Bethany Lutheran Church in Montoursville, and he was the pastor of Mr. Zietz.

Q Some question has been raised as to whether it is usual or even improper for a chaplain who is assigned to a penitentiary to write a letter. That letter has not been read. I would like very much to have you read it. Perhaps it contains its own answer.

A "September 7, 1956.

"Honorable Members of the Board of Pardons, care of the Secretary, Harrisburg, Pennsylvania.

"Regarding David Darcy, Harold Foster, Harry Zietz.

"Honorable Members of the Board: I am a Catholic chaplain of Rockview Institution, sumbit the following letter in the interest of the above inmates. I further request that the letter be made a part of each man's personal file. This letter is being written on my own initiative, but only after consultation with the Warden of this Institution and with the consent of both the Commissioner and the Warden.

"I have been the Catholic chaplain here for over six years. It has been my duty to assist at a number of executions. Trying at all times to realize the high position the scope of my obligations and the demands of justice which the Commonwealth must meet, I have endeavored always to perform the function of my office within these proper bounds. During the last five and a half years it has been my duty to serve as spiritual advisor for Darcy and Foster, and as a source of morale for Zietz as well. Perhaps no one has been closer to them during this period than I. From this flows to what seems to me to be an

obligation of conscience to petition the Members of the Board of Pardons for mercy on their behalf.

"Full well do I realize the cause and effects of crime, restitution, and justice to society. It is not justice for which I ask, but mercy.

"During the five years of incarceration, these men have faced the agony of impending death many, many times. Although the authorities have done everything in their power to conform to the demands of the necessary security and at the same time recognizing the human dignity of their charges, the incarceration has been painfully and agonizingly rigorous. In spite of it all, these men have not cracked up. They have not become bitter. They have not surrendered one ounce of their human dignity as they understand it. As a matter of fact, each in some measure has grown and matured in a manner very worthy of commendation.

"If it be possible to merit mercy, this in my opinion they have done.

"It has also been my fortune to become well acquainted with the families of each man. Except in one instance where the economic living has been at a borderline, each family represents good, substantial American family life. They, too, have called justice, but is it too much to ask that the Commonwealth look upon them with mercy. A rigorous prosecution and a vindictive justice can restore nothing to originally, offended, but can punish the families of whom I write into the very depths of heartbreak and sorrow.

"May I thank the Honorable Members of the Board for their very kind hearing of my appeal. I would further thank the Warden and Commissioner of this institution for their understanding of the exceptional circumstances of this case so far as they affect the chaplain put into such a position such as mine.

"Father R. J. Walsh
"Catholic Chaplain"

Then, the Reverend Lenhart appeared personally before the Board of Pardons. Did he tell of his knowledge of these three men?

A. Yes, he did.

Q Were you informed that for years, and I say it not in criticism at all, these men were kept in the death chamber with the lights on twenty-four hours a day?

A Yes—

MR. KOHN: Wait a minute. This is not in the testimony here.

ATTORNEY GENERAL McBRIDE: I am asking her whether she was conscious of the fact.

MR. KOHN: That isn't what she said. I thought we were going into testimony of something extraneous. I object to anything that is extraneous.

CHAIRMAN TOMPKINS: There is nothing here to indicate—

ATTORNEY GENERAL McBRIDE: I am asking her whether she is conscious of that as a fact, one of the facts of life, how people are kept in the death house.

CHAIRMAN TOMPKINS: Has she ever been there? Has she knowledge of that of her own?

MR. KOHN: We talked about hearsay this morning. If this isn't hearsay, I dont' know what is. If it is in the record, I think it is fair.

ATTORNEY GENERAL McBRIDE: A Member of the Board of Pardons knows something about the facts of life, and a person being in the death house for thirty days might be one thing. A person being in the death house for six years and watching people coming and going might be something else.

MR. KOHN: I don't want to get into an argument about this sort of thing. If we are going that far afield, I am going to put Mr. Evans back on the stand. I don't think he is dumb either. Let us know what they considered.

ATTORNEY GENERAL McBRIDE: Miss Blatt testified—

CHAIRMAN TOMPKINS: Does she have any knowledge of her own that that is the method by which the death cells are operated?

ATTORNEY McBRIDE: Yes.

BY ATTORNEY GENERAL McBRIDE:

Q You testified that you did take into consideration that they were in the deathhouse.

A That's right.

Q Did you take into consideration that that means solitary confinement?

A That's right.

Q For years?

A For as long as they remain in the deathhouse they are confined in solitary confinement under my understanding of the procedures there, which means constant light and which means no communication with the outside. I was told, and I have not had an opportunity to verify this by reference to the report, that at the time the Devers committee was investigating the penal institutions of the State, that committee found that these men had not even been allowed exercise for even one minute per day outside of their cell. As a result of that committee's investigation, I understand that the warden had allowed them one-half hour solitary exercise but they still remained under lights constantly.

BY REPRESENTATIVE BELL:

Q For the purpose of the record, did you have this knowledge at the time of the hearing?

A Yes, I did.

BY CHAIRMAN TOMPKINS:

Q Do you know, Miss Blatt, that as a matter of fact these men were taken outside of the cell for outside exercise?

A I don't know where they were taken. They were allowed out for a half hour exercise after the Devers committee had revealed the fact that they hadn't been allowed any exercise for a period of two years prior to that.

Q That would be around 1953 or something like that?

A Something like that. My recollection is that they were completely confined for a period of about two and one-half years with no exercise and no darkness whatever.

Q I don't see anything in the record on that. You must have obtained it from other sources.

A It may be from my general knowledge of the procedure in the institutions. I am subject to correction, but that is my understanding.

Q But for the last two or two and a half or three years the men were there, they got outside exercise daily?

A For a half hour a day, I understand.

BY ATTORNEY GENERAL McBRIDE:

Q They were there for six years, weren't they?

A They were there for six years, and this exercise was still completely alone.

Q You were familiar with the fact, at least at the time, that the Supreme Court had decided the Zietz case?

A Yes.

Q Did you ask that the decision of that case be produced so that you could read from it?

A Yes, I had forgotten it and I wanted to refresh my recollection on it.

Q Now, Miss Blatt, did the Supreme Court itself in the Zietz case, made a distinction between the kind of argument that can be presented to the Court, and the kind of argument that may be properly presented to the Board of Pardons?

A Yes. The Supreme Court, in the majority opinion written by Justice Horace Stern, on March 20, 1950, in the Zietz appeal, said, among other things, "Chief Justice Shaffer, speaking for the Court of Commonwealth versus Cavalier, 284 Pa. 311, 131 Atlantic 229, where a boy 14 years of age was found guilty of murder in the first degree, from which verdict at that time punishment of death automatically followed, Justice Schaffer said, the substantial basis of the argument of appellant's counsel in this case is that he should not have been convicted of murder in the first degree because of his youth. Such an argument may be availing if made to the Board of Pardons to bring about a commutation of sentence, but so far as we are concerned, it must fall upon deaf ears."

Q Do you know of other cases in which the Supreme Court of Pennsylvania has itself pointed out that arguments, which must remain unavailing when considered by the Supreme Court, may still properly be made before the Board of Pardons?

A Yes. I have come across that statement many times, Mr McBride. I can't cite to you the citations at the moment, but I know I have seen them repeatedly.

Q We will give the Board a list of citations if they wish it. Now, the question of minority opinions has come up here, and it has been suggested that the Board adopted the minority opinion rather than the majority opinion. Is that a fact, or is it the existence of divergent views that caused the Board to act?

A The Board adopted no opinion, either majority or minority, but it considered both, and it was very strongly persuaded, I believe, by the fact that there was such a divergence between them.

Q Do you see anything wrong with the Board of Pardons taking into consideration the fact that even on the issue of whether the trial was fair, the courts have split asunder?

A I not only see nothing wrong with it. I think the Board of Pardons couldn't in any conscience fail to take that into consideration.

Q You spoke of the opinion of the Court of Appeals of the Third Circuit, composed of 7 members. That court, am I correct in saying, divided 4 to 3?

A Yes.

Q Was that on the issue of whether the trial was so bad that even under the 14th Amendment it had to be declared a nullity?

A That's right.

MR. KOHN: Which case are you referring to?

ATTORNEY GENERAL McBRIDE: Darcy case.

MR. KOHN: Yes, but what number?

ATTORNEY GENERAL McBRIDE: Court of Appeals.

BY ATTORNEY GENERAL McBRIDE:

Q Isn't it a fact that not merely the minority of 3, but the majority of 4 as well, indicated that the trial would not have been affirmed by it had it occurred in a Federal Court?

A That was my understanding of the decision.

MR. KOHN: Just a minute. I don't think it is right for the Attorney General to make statements and have her say yes. I think we ought to get it from the record.

ATTORNEY GENERAL McBRIDE: We'll introduce the opinion. The Committee will read it.

MR. KOHN: We want you to refer to what was said and where it said it. It's easy for you to interpret it, but I don't interpret it that way.

ATTORNEY GENERAL McBRIDE: The court interpreted it that way.

MR. KOHN: The only value to this tribunal is what the Court said.

ATTORNEY GENERAL McBRIDE: You brought this up. Just because it doesn't help you, don't try to boot it out.

MR. KOHN: That's very funny. Mr. McBride. I appreciate it. I think it's the words of the Court that counts, not what McBride says.

CHAIRMAN TOMPKINS: If Miss Blatt relied upon anything in that decision to influence her decision in the commutation, I think she should point out that portion of it which she did rely upon.

REPRESENTATIVE LOPRESTI: She referred to that this morning in her testimony, that even the majority opinion left her of that impression. She testified to that this morning. So I think it's proper to read it.

CHAIRMAN TOMPKINS: I have no objection to the decision being put in on this, but for the Attorney General to take what his opinion is and ask her if it is the same as hers, I don't think that's right. We'll let the opinion go in, no argument about the opinion.

BY SENATOR SCOTT:

Q Is there specific language there that you can quote to us that led you to draw that conclusion?

A Since I testified this morning that I drew a general conclusion from the whole opinion. I really wish that the members could read the whole opinion so that you would get the same impression, but I could quote several specific sections that I think might be helpful if you would like me to.

MR. KOHN: Read it.

THE WITNESS: What section do you want?

BY CHAIRMAN TOMPKINS:

Q Read the section of the majority opinion that you have referred to.

A I was referring to the majority opinion, saying that I really hope you would read the whole thing, because the whole thing is really necessary, I think, to get their complete reasoning. But I would be glad to read two or three sentences that seem to be particularly interesting that I just marked out here.

Q We don't want to consume the time of reading the whole decision.

A May I read about three sections?

Q Read the sections that might have influenced your opinion.

A I will read the sections I marked with my own pencil and I presume they affected me more than some of the others.

Q This is the majority opinion?

A That's right, written by Judge Hastie, Circuit Court of Appeals:

"The evidence does not indicate, as relator would infer, that the jurors who tried relator were waiting in or near the courtroom during the period of the trial of his confederates. At most it indicates that during the two weeks immediately preceding relator's trial the community in general had experienced a revival and quickening of interest in the homicide attended by many expressions of indignation against its perpetrators. But it does not appear that feeling ran so high or that hostility toward the relator was so intense and so general as to make it seem incredible that the search for a satisfactory jury would yield twelve persons as open minded about this case as the jurors here claimed to have been. The situation certainly would have justified a decision to wait a while before trying the relator, or else to try him in another community if trial immediately after the conviction of his confederates was deemed important. We may be persuaded that in the circumstances it would have been wise to take such precautions, yet not be convinced that failure to follow the wiser course was a denial of the essence of fair trial."

That seems to indicate they thought there was something not quite right here.

BY REPRESENTATIVE BELL:

Q What page number is that?

A I am reading from my little pamphlet here.

MR. KOHN: It's on page 1245 of the transcript of the record before the Supreme Court.

THE WITNESS: Then for purposes of identification, about three paragraphs later, still Judge Hastie speaking:

"And absent some such improper partisan participation by Judge Boyer in the trial, we cannot say that his rather striking manifestation of extraordinary interest in the proceedings constituted a denial of due process of law. It is established constitutional doctrine that our limited function in correcting fundamental impropiety in state trials challenged under the due process clause makes it necessary that we leave alone many dubious occurrences in state procedure which we would prescribe if they should happen in a federal court."

BY SENATOR SCOTT:

Q They don't point anything out specifically?

A It seems a clear inference if this had been in a Federal Court they would have proscribed it because they say that "it is established constitutional doctrine that our limited function in correcting fundamental impropriety in state trials challenged under the due process clause makes it necessary that we leave alone many dubious occurrences in state procedure which we would proscribe if they should happen in a federal court." That seems to me to clearly indicate that if they had been in the Federal Court they would have sent it back—this is the majority speaking—for a new trial, but being in the State Court they didn't feel they had jurisdiction under the due process clause to do that.

BY ATTORNEY GENERAL McBRIDE:

Q Will you read that part of the opinion I have marked on page 507, of Volume 224 Federal Reporter (2nd Series) Justice Hastie's opinion?

A "While to a majority of this Court these facts alone have not seemed so compelling as to preclude an independent showing that the trial was dominated by prejudice and hostility, they certainly make the undertaking very difficult. To meet this difficult burden of proof, relator has relied largely upon the daily newspaper accounts and editorial comments published in the community during the trial of two of relator's alleged confederates which ended only 3 days before he himself was required to stand trial."

Q Now, will you read from the opinion that part of Judge Kolander's dissent which appears on page 19 and shows the interpretation of the three dissenting judges of the majority's position as to whether or not they would proscribe it if it had happened in a federal court?

A "Shaken down to its hard core the majority's position—bluntly stated—is this: Darcy was grievously hurt by Judge Boyer's conduct but we cannot help him because he was hurt on the other (the State) side of the street; otherwise stated, there is no constitutional redress for Darcy despite the fact that he was unfairly tried because it was his fate to be tried in a State court instead of a Federal Court."

Q I wish you would start off with "In conclusion."

A "In conclusion, I will dwell but briefly with the majority's view that Judge Boyer's conduct was an 'occurrence—in state procedure,' immune, as such, from the reach of the due process guarantee. Implicit in the majority's discussion on this score is its recognition that Judge Boyer' conduct was 'dubious' and its indication that it would have 'proscribed' it had it happened in a trial in a Federal Court and would have considered it as a compelling basis for granting a new trial."

Then follows the paragraph starting with "Shaken down to its hard core" which I have just read.

Q Now, have you ever heard anyone, since the fact has become known publicly, that 11 jurors signed letters stating that had they heard Darcy or character witnesses, they would have voted for life imprisonment? Have you ever heard that challenged on the basis that pressure had been put upon the jurors?

A I have not heard any such challenge.

Q Did the Board treat it as of significance, that the Court did not consider those letters when it was considering the fairness of the trial, the fact that the jurors signed those letters?

A Not at all.

BY CHAIRMAN TOMPKINS:

Q As a matter of fact, hadn't our own Superior Court said the jury can't impeach its own verdict by stating what it might have done after the verdict?

A I think so.

Q And the obtaining of these statements from these jurors was highly improper?

A Well, I dont' know about that latter statement, but certainly as a legal matter I would agree with the first. But still when the Board of Pardons is confronted with deciding whether three men live or die, I think it was proper that this should bear some part—not a great part necessarily, but some part in the decision.

BY ATTORNEY GENERAL McBRIDE:

Q Are you familiar with the course the proceedings took in the Supreme Court of Pennsylvania upon the first appeal, and what questions were argued there?

A I wouldn't like to hold myself out as an authority on that, Mr. McBride. I have had some difficulty keeping straight all these legal proceedings, and I think I can tell you what happened when, but I wouldn't like to testify as to what was argued and all.

Q Are you familiar with the fact the Supreme Court of Pennsylvania on the first appeal had to declare an act of the legislature unconstitutional in order to sustain Darcy's conviction?

A I dont' recall that.

CHAIRMAN TOMPKINS: They didn't declare it unconstitutional.

ATTORNEY GENERAL McBRIDE: Yes, they did.

CHAIRMAN TOMPKINS: The DePofi case preceded the Darcy case.

ATTORNEY GENERAL McBRIDE: No, sir; they were argued the same day. That is what I argued. They put this three-week record of crime in the case in violation of an Act of Assembly on the chance that it would be declared unconstitutional, and the Supreme Court of Pennsylvania, after the event, declared the act unconstitutional, because if you please, the title was wrong, among other things. The legislature's right hand did't know what its left hand was doing, they said.

SENATOR SCOTT: What was the section?

ATTORNEY GENERAL McBRIDE: Article 3, Section 3. Both of you gentlemen will remember that in 1947, the Crimes Commission recommended that there be a split verdict, that there be a verdict, first, on the question of guilt, and then if the man had a criminal record, the criminal record should come in afterward on the issue of what punishment he shoud get.

Senator Cryder was the Chairman of the Commission. Senator Cryder moved the passage of a bill to see to it that the good work of that provision would not be vitiated, and Judge Laub was one of the moving spirits in enacting that recommendation.

The purpose of the act was so that during the consideration by the court and jury of the issue of guilt, the criminal record should not be considered, and then when the jury had passed upon the question of guilt and was ready to decide whether the man should live or die, having reached a verdict of first degree murder, then, but not until then, the criminal record should be considered.

Now here in the Darcy case, he having engaged in three weeks of horrible crimes, the evidence of those crimes was put in by the Commonwealth in its case in chief, in violation, direct violation, of the Act of 1947, and the lower court said it believed that Act was unconstitutional and disregarded it. Butt the Act was on the books at the time.

On appeal to the Supreme Court of Pennsylvania, the argument was made that Article 3, Section 3, providing that the title shall give notice of its contents, did not give notice that it was making this radical change, and hence it was unconstitutional. It was the first, so far as I know, the only time, were the Commonwealth itself challenged the constitutionality of an act on the ground that the title did not give notice to the Commonwealth of what the Commonwealth was doing.

In any event, it was declared unconstitutional. Darcy's conviction was affirmed, over a dissenting opinion by the present Chief Justice Charles Alvin Jones, which was filed in the DePofi case, which came up from Pittsburgh, but in that very opinion he refers to the aid he got from the brief of counsel in the Darcy case. They were argued at the same time. But the opinion happened to be filed in the DePofi case, although the dissent took place in each, because the problem was common to both.

BY ATTORNEY GENERAL McBRIDE:

Q Miss Blatt, were you guided at all times in your vote in the Darcy case, by your conscience?

A I certainly was.

Q Had the other three voted against commutation, would you still have voted for it?

A I certainly would have.

Q Did you do that, of course, knowing that the decision would be criticized?

A I did.

ATTORNEY GENERAL McBRIDE: That' all.

BY MR. KOHN:

Q You quoted from the Circuit Court of Appeals. Did you ever read the opinion of the Supreme Court of the United States in the matter?

A I did.

Q Did you pay any attention to it?

A I certainly did.

Q Did you read this from the opinion of the Supreme Court of the United States, 351 "Petitioner has been given ample opportunity to prove that he has been denied due process of law. While this court stands ready to correct violations of constitutional rights, it also holds it is not asking to much that the burden of showing essential unfairness be sustained by him who claims such injustice, and seeks to have the result set aside, and that it be sustained not as a matter of speculation, but as a demonstrable reality."

Q Did you read that?

A I did.

Q Did you pay attention to it?

A I did.

Q In regard to comparison with opinion of the lower court?

A I did.

Q It made no impression?

A It made an impression on me but not an impression sufficiently strong to outweigh my convictions on the other side.

Q Do you recall this: "Justice Holmes, speaking for the unanimous court in Holts vs. U. S. 218 U. S. 245, 251, cautioned "If the mere opportunity for prejudice or corruption is to raise a presumption that they exist, it will be hard to maintain jury trials under the conditions of the present day." Did you pay any attention to that?

A I did.

Q But neither did that outweigh the opinion of the lower court dissenting judges?

A In my opinion it did not—I hope you are going to read the dissenting opinion in that Supreme Court.

Q I will read what I want to and if you want to read anything, I will be glad to give you an opportunity.

A Thank you.

Q Did you read further: "We have examined petitioner's allegations, the testimony and documentary evidence in support thereof, and his arguments. We conclude that the most that has been shown is that in certain respects, opportunity for prejudice existed. From this, we are asked to infer that the petitioner was prejudiced. The law recognizes that prejudice may infect any trial and provides protection against it. For example, provision is made for vior dire examination and challenge of the jurors who indicate they may be prejudiced. In addition, a substantial number of peremptory challenges is allowed." You are familiar with that?

A That's right.

Q "This gives to each party a large discretion to exclude jurors deemed objectionable for any reason, or for no reason. Another protection is available through the severance of trials of defendants through continuances of respective trials. Still another means of protection is that of a change of venue for proper cause. In the instant case, notwithstanding the fact that competent counsel for the petitioner did not use all of his peremptory challenges, after a searching examination of prospective jurors on voir dire, and did not seek a continuance of the trial or a change of venue, petitioner asked this court in effect to infer that the news coverage of the robbery and proceedings prior to petitioner's trial, including the Zietz-Foster trial, created such an atmosphere of prejudice and hysteria that it was impossible to draw a fair, impartial jury from the community or to hold a fair trial. And failure of petitioner's counsel to exhaust the means provided to prevent drawing of an unfair trial jury from a community allegedly infected with hysteria and prejudice against the petitioner's, is significant."

SENATOR YOSKO: Mr. Chairman, you know, I am beginning to lose my patience. Everybody has been patient here all day long. We are not here to review opinions, dissenting opinions and interpret them, and argue about them. We are here for one reason: to determine whether there was political influence used on this Pardons Board in the granting of a commutation to the three defendants and I think we have gone absolutely too much into extraneous matters here. I think we can expedite these hearings if we confine ourselves to the issues. I am going to ask the Chairman to instruct counsel and everybody else here involved to do just that.

CHAIRMAN TOMPKINS: These were all matters relating to the question which came before the Pardons Board. Court opinions have been injected into the reasons which the Pardons Board used for the purpose of granting the commutation. For that reason I think they become material to the inquiry as to those reasons. We will permit references to these decisions. We have tried to reduce them to certain quotes in order to avoid reading the entire opinion because they are very lengthy, and we wish that counsel would confine themselves to those portions in that respect.

MR. KOHN: I am perfectly in accord with Senator Yosko. I wish he had made his objection while Mr. McBride was questioning. But I couldn't let it go by.

REPRESENTATIVE LOPRESTI: In fairness I don't think you could be in accord with Mr. Yosko, because of the Board relied, in part at least, upon the decisions of the Court, then it is proper for the Board to come in and show the decision was based upon facts and not upon political considerations. So I think it is perfectly proper.

MR. KOHN: Mr Lopresti, I think it is just as fair to show that they disregarded the other opinion, which was the majority opinion.

REPRESENTATIVE LOPRESTI: I think you have a right to go into that.

CHAIRMAN TOMPKINS: Proceed, Mr. Kohn.

THE WITNESS: I would like to read a little of the dissent. You said I may.

MR. KOHN: I will stop reading. I think the matter should be put on the record, I agree that they relied on the minority opinion, and that is their basis here, that's the only thing that should be considered. I am not going to press that matter.

REPRESENTATIVE LOPRESTI: That statement, Mr. Kohn, is not quite correct, because Miss Blatt said she relied in part at least on the majority opinion and she quoted to you various sections of the majority opinions which caused her to believe that even the majority was not satisfied.

MR. KOHN: I have nothing further.

THE WITNESS: Mr. Chairman, what I would like to read, just so the record will be complete, is that in the majority opinion of Mr. Justice Burton of the Supreme Court of the United States, the opinion closes with these words: "Petitioner has not sustained the burden resting upon him to show that his trial was essentially unfair in a constitutional sense, and that the several courts which have reviewed it are all in error. The judgment of the Court of Appeals is therefore affirmed." Now, I may have put undue stress on the words, "essentially unfair in a constitutional sense," but I did read them with emphasis, and I think Mr. Justice Burton, speaking for the majority, was trying to indicate the very narrow limits within which the majority had to cast its decision.

The dissenting opinion, which was joined in by three members of the Supreme Court of the United States, all learned men, all men of integrity and character, and was written by Justice Harlan, speaking for Mr. Justice Frankfurter and Justice Douglas, who joined him, said in emphatic terms that they thought the majority decision was incorrect, and that they would reverse the judgment below on the basis of Judge Boyer's conduct. The central facts against which this conduct was reviewed are that Zietz, not the petitioner, did the actual killing on which the petitioner's trial was based, and two petitioner's participation in the robbery being uncontested, the only real issue at his trial was whether he should suffer the death penalty or life imprisonment, which under the Pennsylvania statute was a question for the jury. If these facts be kept in mind, I think the Court presents no violation of due process, has disposed of Judge Boyer's conduct too lightly." And it goes in some detail in regard to Judge Boyer's conduct. It concluded: "The reason for my conclusion"— this is Mr. Justice Harlan, "are those which Judge Kolander has well stated in his dissenting opinion in the Court of Appeals, 224 Federal (2nd) 504,

"We should be especially scrupulous in seeing to it that the right to a fair trial has not been jeopardized by the conduct of a member of the judiciary."

Now, I personally placed a great deal of emphasis on the opinion of these learned judges of the courts, that I happen to think those of the minority had greater weight in my conclusion, is my conclusion based on my own estimate of it, and other facts that I knew relevent to the case.

BY CHAIRMAN TOMPKINS:

Q Miss Blatt, do you think that if the question of hysteria, and of Judge Boyer's actions in this case, had been so important, that they should have been raised long before they were? I am not arguing the point whether or not they didn't have the right to raise it; I am arguing whether or not if they were so important, why it took such a long time before they were raised.

A Mr. Tompkins, you know as a member of the Bar how hesitant I feel at this moment or at any time, to criticize a member of the bar whom I don't know and whose motives are unknown to me. All I can say is that it seems very odd to me and I don't think I would have done it that way, but that is the way it was done.

ATTORNEY GENERAL McBRIDE: Before the hearing concludes, I wish in fairness to the dead man—

CHAIRMAN TOMPKINS: Just a moment, please.

BY CHAIRMAN TOMPKINS:

Q You know there were 26 exceptions filed in the Darcy case when it first went to the Supreme Court of the State of Pennsylvania?

A I dont' recall that.

Q None of those 26 exceptions make any reference to any hysteria or to Judge Boyer's interference in the case.

A I would have to refer to that to answer your question. I don't recall the precise nature of the objections.

Q If you will check the record on that, I think you will find among the exceptions raised in the original appeal to the Supreme Court, those questions were not raised.

A I presume whoever was counsel at that time had other grounds on which he wanted to take the appeal.

CHAIRMAN TOMPKINS: Anything further?

CHAIRMAN TOMPKINS: Very well, we'll take a ten-minute recess.

(Short Recess)

ALEXANDER L. SUTO, having been duly sworn, was examined and testified as follows on

DIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Suto, you are a member of the Allegheny County Bar?

A Yes, I am.

Q What connection did you have with Charles J. Margiotti?

A At this time, or—

Q Well, previously.

A Previous to this time I had no professional connection whatever. I have always maintained my own practice as an attorney at law, and prior to being admitted to the Bar I practiced as a certified public accountant.

I might add that I have always maintained my own practice. He is my father-in-law, and I did work independently for him as a certified public accountant.

Q At the present time what connection do you have with his estate?

A At the present time I am attorney for the estate of Charles J. Margiotti.

Q As such did you have access to his files?

A Yes.

Q Did this Committee request that you bring with you such evidence as there might be in the file in connection with the Darcy case?

A Yes, they did.

Q What do you have with you in regard to that?

A I have summarized what his books and records show. I might add at this time that Miss Ford has waived any privilege that she may have in connection with the attorney-client relationship, and it is with her permission that I am making this disclosure before this Committee.

CHAIRMAN TOMPKINS: Is Miss Ford in the audience today? (A woman in the room answers, "Yes")

CHAIRMAN TOMPKINS: Is this being done with your permission, Miss Ford?

MISS FORD: Yes, it is.

CHAIRMAN TOMPKINS: Thank you.

BY SENATOR YOSKO:

Q Who is Miss Ford?

A Miss Ford is the client of Mr. Margiotti. Mr. Margiotti was retained by Miss Ford, according to his records.

BY MR. KOHN:

Q What do your records show?

A My records indicate that Mr. Margiotti, and the firm of Margiotti and Casey—when I speak of Mr. Margiotti I am actually speaking of the partnership firm of Margiotti and Casey—indicate that Mr. Margiotti's firm was retained by M. R. Ford, in that the first payment of any fee was made on May 4, 1951, in the amount of $1500. Subsequent payments were made from 1951, on through 1956.

Q The payment was how much, did you say?

A The first payment received from M. R. Ford, dated May 4, 1951, was in the amount of $1500.

Q And how many subsequent payments were made?

A Subsequent payments, 7 subsequent payments were made.

Q What do they total?

A The total payments received from May 4, 1951, through July 16, 1956, totalled $15,143.50.

BY CHAIRMAN TOMPKINS:

Q Through July 16, 1956, you said?

A Yes, the date of last payment. That was prior to the death of Mr. Margiotti on August 25, 1956.

BY MR. KOHN:

Q Of your own knowledge, or from what Mr. Margiotti told you, do you know how Miss Ford happened to hire Mr. Margiotti?

A I might add before we get to that, in connection

with the fee, that that $15,143.50 also represents, or included therein, payments for costs advanced by the law firm of Margiotti and Casey and that such costs advanced by the firm for the years under discussion total $4,169.03.

Q And that is inclusive in the $15,143?

A Yes. That was not reimbursed separately, but the $15,143.50 covers any costs advanced also by the firm of Margiotti and Casey.

Q Were there any other costs paid out of that or attorneys' fees to any other attorney?

A No. The records do not indicate the payment of any fees to any other attorneys.

Q Any payments to Morton Witkin of Philadelphia?

A The record does not indicate such payment.

Q Does it indicate any payment to Pannell of Philadelphia?

A The records do not indicate payments to Mr. Pannell.

Q I have here an application in the David Darcy case no. A-306, September Session 1956, filed August 20, 1956. Do you know why statement was made that "no fee has been paid and no arrangements made by me for the payment of any sum for such representation; this matter has been left for the future determination of my family and relatives"? Was there anything in the file to show that had been the arrangement as to why it wasn't disclosed that payments had been made since 1951?

A As I understand this is a statement made by David Darcy?

Q That's right.

A I would have no knowledge as to the reason he would make any such statement or the purpose of such statement.

Q Actually, the records show there have been payments made since 1951?

A The records indicate that there have been payments made by M. R. Ford in every instance, from May 4, 1951, through July 16, 1956.

Q Will you tell us whether those payments were made by check or by cash?

A The payments in all cases were made by check.

Q And they would show up on the deposits of Mr. Margiotti as having been received from a certain bank in Philadelphia?

A They may not designate the bank on which payment was made. The record will indicate the name of the party who had signed the check, the date that the check was actually received, which may not correspond with the date the check was issued because of delay in delivery, through the mials, and—

Q The bank on which it was drawn?

A The bank on which it was drown will not be indicated in the records of Mr. Margiotti and Casey.

Q Wouldn't they be indicated on the deposit slips, the part where it indicates the bank which check is drawn on?

A Normally the procedure in his office was to identify it by the number in the top righthand corner of the check. I have secured this information from the cash receipts journal, and also the cost advance ledger which he maintains, covering his entire costs and fees received on this particular case. I did not consider it necessary to go beyond that and to dig out deposit slips because at this time I can't say whether they are in existence or not.

Q Do you know whether Miss Ford hired him direct or whether there was intervention of any other parties?

A The records do not indicate how that employment was made. However, of my own personal knowledge, I believe that it was through Miss Peg Gordon, who has been a close member of the Margiotti family, particularly Mrs. Margiotti and her sister, Miss Eva Wery. And as I understand it, that relationship goes back many, many years, and I had occasion myself, approximately 3 years ago, to entertain Miss Gordon, Miss Wery, and my mother-in-law, Mrs. Margiotti, at my home.

Q Do you know if Margiotti did any work for Matthew McCloskey?

A I have checked the record for the period requested in your letter, 1950 through 1956, and I can find nothing in the records that would indicate any services being rendered by Mr. Margiotti to Mr. Matthew McCloskey, nor the receipt of any payment from him during those particular years.

MR. KOHN: That's all.

BY SENATOR YOSKO:

Q You don't have a breakdown of what the $15,000 was used for, do you? Printing, and all that sort of thing.

A Yes, I have some information. It may not be complete. But are you concerned with the $4,169.03 costs advanced?

Q Is that the part of the $15,000 that represents costs, that is, printing costs and that sort of thing?

A I would say that a separate check on July 16, 1956, in the amount of $643.50, included in the total amount which I had previously given to this Committee was, as I understand it, for the printing costs in connection with the record. There are other printing costs—telephone expense, postage, filing costs, Western Union, additional printing costs in the amount of $41, for example, certain hotel and travelling expenses, for example Penn Harris Hotel in 1951, $199. It is made up of a series of expenses—travelling, filing, printing, hotel, telephone, postage, which over the period of the years involved cumulatively amounted to $4,169.03. The largest single item in that cost is the $643.50 expended on July 16, 1956.

BY MR. KOHN:

Q Previous to that time were there any costs for printing paper books in the Circuit Court of Appeals and Pennsylvania State Supreme Court?

A Prior to July, 1956, there is no substanital amount—there is no other item in there that I can see for 1956—

Q Going back to 1951, there is no record of payment for paper books to Circuit Court of Appeals or the District Court?

A No, there is nothing in the record for those—Muriel Printing Company, 1953, $22.53; and September 30, $41.66. $216.19 in August, August 15, 1951. That constitutes the total record of printing costs on his cost advance sheet.

MR. KOHN: That's all.

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Suto, will you give us the other dates of payments and the amounts?

A Certainly.

Q You have given us May 4, 1951, $1500. Now give us the subsequent dates and amounts.

A Another payment on December 18, 1952, in the amount of $5000, with the record carrying designation, "Received from M. R. Ford." December 24, 1953, $1000, carrying the same designation;

March 29, 1954, amount of $1000, M. R. Ford;

December 30, 1954, $1000, received from M. R. Ford;

November 14, 1955, $2,500, received from M. R. Ford;

May 7, 1956, $2,500 received from M. R. Ford.

And final payment of July 16, 1956, in the amount of $643, received from M. R. Ford.

ATTORNEY GENERAL McBRIDE. Mr. Kohn, could you tell us the date of filing of that application?

MR. KOHN: August 20, 1956.

BY ATTORNEY GENERAL McBRIDE:

Q Therefore, that application says on there that no payment has been arranged for in connection with the application before the Board of Pardons. When did Mr. Margiotti die?

A Mr. Margiotti died on August 25, 1956.

Q It is a fact, then, that no payments whatever were made to Mr. Margiotti after the date on which this application was filed to the Board of Pardons which resulted in the commutation?

A That's correct.

Q There is nothing in your records which contradict that statement in the application, is that right?

A That is correct, no payments were received.

Q You have told us what Mr. Margiotti received. What did he do during those years?

A I might say that actually what he did would not be within my personal knowledge except to this extent, that there are approximately 8 or 9 large files completely filled. I do know that he delegated various members of his staff who had worked on the case and spent considerable time on it. But exactly what he did and when he did it, I am not competent to testify to that because I actually do not know.

Q Are you familiar with the various courts to which he brought the case?

A Yes. Generally speaking I do know that he spent considerable time on it. I saw him reading paper books myself, at home, spending considerable time holding conferences, building up these tremendous files. In fact, in transferring all the files from his office to my office, that particular case constituted one of the largest group of files on any single case that was in his office, excepting, of course, the files in connection with the 1938 scandal—

BY MR. KOHN:

Q 1938 what?

A 1938 investigation that they had here.

BY ATTORNEY GENERAL McBRIDE:

Q Therefore, despite the fact that Mr. Margiotti was in the case from May 4, 1951, to the date of his death, not a single penny of the money he received was received by him in connection with or for the application before the Board of Pardons which resulted in the commutation?

MR. KOHN: How can he say that? He doesn't know.

A I can state what the records show. The records do not indicate—

BY MR. KOHN:

Q I mean he says that is a fact. You don't know that.

BY ATTORNEY GENERAL McBRIDE:

Q Do not the records from which you are testifying affirmatively show that every penny he received was in connection with the case in its prior aspects?

A The records so indicate.

Q Mr. Margiotti of course died before this case was argued before the Board of Pardons?

A Yes. I stated he died on August 25. I might add that prior to that time he was physically incapacitated. He was in various hospitals, beginning possibly in the latter part of July, early part of August, his situation was critical in that he was unable to give attention or give any time because of his physical condition, to any of his cases.

Q Do you have any personal knowledge whether he appeared in the Supreme Court of the United States in connection with this case?

A I could not state definitely, unless—

Q All right, I will get it from another witness.

ATTORNEY GENERAL McBRIDE: That's all.

CHAIRMAN TOMPKINS: That's all, Mr. Suto. Thank you very kindly.

THE WITNESS: I would like to express my thanks to the Committee for permitting me to get through this afternoon so I may get back.

(Witness excused)

HONORABLE EDWARD BIESTER, having been duly sworn, was examined and testified as follows

DIRECT EXAMINATION

BY MR. KOHN:

Q What is your present position in Bucks County?

A President Judge, Court of Common Pleas.

Q At the time of the Darcy case in Bucks County what position did you hold in Bucks County?

A District Attorney.

Q Did you try the Darcy case?

A I did, with the assistance of Willard Curtain, now Congressman Curtain.

Q There has been some statement made here with regard to Judge Boyer's condition during this trial. Did you know Judge Boyer very well?

A Indeed I did.

Q How long had you known him?

A Twenty years.

Q At the time that he tried this particular case, what was his mental and physical condition?

A He was in excellent physical and mental condition, I would say. At least I noticed no impairment of his faculties that would in any way reflect on his ability to try.

Q Who is the judge that tried the Darcy case?

A Judge Keller.

Q What was Judge Keller's physical and mental condition?

A His mental condition was excellent, I would say. He presently is retired from the Bench. He now has some slight impairment of hearing.

Q Judge Boyer died how soon after the Zietz-Foster trial?

A I would say about three and a half or four years.

Q About three years after the trial, these questions regarding Judge Boyer sitting on the Bench for the motion court was first raised by Margiotti, is that correct?

A I would have to depend on my recollection as to the exact time.

Q It was about that?

A That would be approximately right.

Q Now, I don't want to go into all the ramifications of the trial. Did you argue any of these cases before the Supreme Court of Pennsylvania or any of the Circuit Courts or District Courts?

A Supreme Court of Pennsylvania. And I would like, if I can possibly refresh Mr. McBride's recollection—though possibly I am in error, but my best recollection is that the DePofi case had been argued before the Darcy case but that when the constitutional question was raised, the DePofi case was called for re-argument, re-argued the same day and Mr. McBride and I argued it, and the DePofi case counsel adopted our argument in that case, but that case is the one that was regarded as the leading case on the question of the constitutionality of the act.

BY ATTORNEY GENERAL McBRIDE:

Q That's right. Here is the DePofi case which shows it was argued January 3, 1949, re-argued April 19, 1949, and the Darcy case was argued on the same day (indicating).

A That's in accordance with my recollection.

CHAIRMAN TOMPKINS: Was there an opinion handed down on the original argument?

ATTORNEY GENERAL McBRIDE: I will give you the exact dates. The opinion in the DePofi case was handed down May 26, 1949, and the opinion in the Darcy case was handed down May 26, 1949. Both opinions on this point, in both cases were argued on the same day on this point.

CHAIRMAN TOMPKINS: What I am getting at is this, it has been indicated now there had been an original argument on the DePofi case, and then a re-argument.

ATTORNEY GENERAL McBRIDE. The original argument did not involve this point.

Q Is that right, Judge?

A That's right.

ATTORNEY GENERAL McBRIDE: Then when we presented the question in the Darcy case, they recognized that the same point applied to the DePofi case, and they directed re-argument in the DePofi case. Both cases were then argued on this point on the same day, and the opinion in both cases came down on the same day.

THE WITNESS: I would like to clarify another situation. I know that Mr. McBride did not intend to convey the impression that we had no right to raise the constitutional question, he indicated it was rather unique that the Commonwealth raised it. But I think he will agree with me that it was the original purpose—as he stated—to have two courses to the act. At the time the case was tried, only part of the original act as intended was passed. It was our contention that we could introduce, under the meaning of that act, records of these prior offenses.

BY MR. KOHN:

Q You mean offenses that occurred about the same—

A Within a period of three weeks or a month. Under the interpretation of the act sought for, it was contended we had no right to introduce those prior acts. In effect, therefore, the jury would be deprived in passing upon the punishment of the defendant, of the knowledge of the prior offenses, and we took the position that the meaning of the act, if anything, meant we could introduce the prior offenses in the lower court, and on appeal, I think that the constitutional question was not only as to the act, but they said standing alone, that the act as it was on the statute books was in effect too vague and meaningless as to become unconstitutional. There were two parts to the constitutional question.

BY ATTORNEY GENERAL McBRIDE:

Q And the words "or the degree?"

A That's right.

BY MR. KOHN:

Q In other words, your interpretation of the particular act was you had a right to introduce it for the purposes of establishing the penalty of the crime?

A That's right.

Q The lower court sustained your position?

A That's right. I don't recall the wording of the opinion but my best recollection is the judge said it either meant that—

Q Do you know how long Mr. Achey practiced, defense counsel?

A Twenty years.

Q What was his status as defense counsel when he represented Darcy?

A I would say Mr. Achey was regarded as certainly the most active trial lawyer at the bar, and certainly one of the most competent. I think Mr. McBride will agree with that statement.

ATTORNEY GENERAL McBRIDE: I would not disagree with it.

THE WITNESS: May I here interpolate as far as other counsel were concerned, counsel for Zietz and Foster, representing Zietz was Mr. Rubin, who is now a judge of our court, and representing Foster was of counsel Donald Smith, who is president of the Bar Association. I am indicating that to show you that they were not men who were just beginning to try cases.

BY MR. KOHN:

Q When was the question of Achey's ability as defense counsel first raised, how many years after the case had been tried?

A My recollection is when it was first raised there was some implication of incomptence prior to his death.

Q That was raised by Mr. Margiotti?

A That was raised by Mr. Margiotti. The precise time of his death and the precise time he raised it I would hesitate to say.

Q Approximately.

A I would say three years afterwards.

Q When was the first time the hysteria question was raised?

A At the same general period.

Q Three years afterwards?

A Yes.

Q When was the first time the idea was passed that Judge Boyer and yourself, were incompetent, when was that first raised?

A About the same time. I don't know whether they were raised precisely at the same time because I have not refreshed myself from the records.

Q About three years afterwards all these things came up?

A I would say approximately so. The record will disclose it.

Q Had Mr. McBride raised any of them before the Supreme Court of Pennsylvania, these particular issues?

A No.

Q Now, you were present, I think you testified, before Judge Murphy in the District Court with regard to many of these phases of the case that Mr. Margiotti raised?

A Yes.

Q Were you present also when there was attempted to be introduced statements obtained from jurors?

A I won't say that I was because I wasn't there during all of the hearing, and my recollection does not serve me as to whether I was there at the precise moment. I do recall Judge Murphy—I think had been instructed not to receive them, at least they were not received and therefore, of course, the Commonwealth was precluded from showing the circumstances under which they were obtained.

Q Inasmuch as the Pardons Board has considered them, have they ever contacted you or any other member of the District Attorney's staff in Bucks County to find out under what circumstances they had been obtained?

A I can only answer for myself. They have not contacted me.

Q Do you know under what circumstances they were obtained?

A No. It would be the rankest kind of hearsay, I would say.

Q Now, these jury panels that tried Zeitz and Foster, were they all called at the same time? Did they sit in the courtroom at the time of the Zeitz and Foster case?

A No.

Q The jury panel which was called for the Zeitz and Foster case was excused after it had been selected, under the law; is that correct?

A That is correct.

Q And then there was another panel called to try Darcy?

A That's right.

Q Now, there have been some allegations that you had not notified Darcy that he would be tried immediately after Zeitz and Foster; and I notice by the testimony that you contravene that statement. What was the fact in that?

A Again, remember that you are calling upon things that happened a great many years ago; but the best of my recollection at this moment is that we conferred with all of the counsel in the two cases and advised them which cases were to be tried first and which were to be tried second and in what weeks they were to be tried; and just how long in advance of the trials themselves, I don't know.

Q Did they receive some advance notice?

A Sometimes, yes.

Q Was there any motion for continuance made by Darcy's counsel?

A No.

Q And was that fact not used also by Margiotti for argument before the Federal Courts, the fact that they were rushed into trial and had not received notice?

A Yes.

Q What is your opinion of the reaction of the public opinion on the commutation of these sentences, the matter of the effect on law enforcement officers and so on?

A That is a little difficult to answer, Mr. Kohn I would say that the resentment was originally with the delay of the imposition of the sentence. Now, far be it from me to say that steps weren't properly taken, but it is difficult to convince the ordinary layman that proper steps can be taken which can cover such a long length of time and thus defer the imposition of the sentence; and the inquiry for the most part is how long can this go on?

After the Pardons Board did commute the sentence to life imprisonment, I discussed it wih very few people. The very few that I did discuss it with were principally attorneys, and were in discord with it. I may say that my own particular reaction was the sense of injustice to the many men who had done so much less and had still gone to the chair for what they had done—

Q Did you try the Katz case?

A No.

Q He was electrocuted, was he not?

A Yes.

Q And you feel there is a sense of injustice in commuting these sentences, from the fact that you know about the case?

A That is purely a subjective question and I may be partisan; but the fact that I was the District Attorney who tried it, now I am thinking in two capacities, as the jurist and as the prosecutor, from what I know of the trial of the case, what I know of the competency of counsel, what I regard as the lack of hysteria or the competency of Judge Keller, whatever motivated the Pardons Board, from my own observation, I would have said it was unjust.

Q You feel that consideration of the type of thing you have heard here today will open up the door for many death sentences imposed by juries, since you have heard the reasons given—

A Yes. I have heard some of the reasons. I don't like the thought of reading letters from the jury.

Our Supreme Court, I think in this case, condemned it specifically. It should not be done. I do not believe those letters should be regarded too strenuously ex parte without any attempt to determine the circumstances under which they were obtained.

I don't like to think that because a trial is delayed because of the ingenuity of counsel, that that in itself should result in the change of a sentence.

This does not mean, and I wouldn't have it interpreted, that I think it very unfortunate that these men had to wait all this time, and they must have suffered a great

deal, although I do not believe that these reprieves were always granted the night before sentence was to be imposed or that they were prepared for execution some twenty times; but if it was a few times, it was very unfortunate.

Q What effect, in your opinion, does the commutation of sentence in these kind of cases have on the general law enforcement agencies in the community?

A I believe that law enforcement officers still try to do their duty to the best of their ability.

Q Don't you think they get very discouraged from time to time?

A I think they get discouraged. I think in this instance there may be an area of discouragement; but I have enough confidence in police officers to say that they are going to do their duty in spite of it.

Q Do you think Mr. Achey performed his services to Mr. Darcy in full faith to the best of his ability?

A I have no doubt of it.

Q And there are peculiar circumstances in your county with regard to the fact as to whether or not the defendant tesifies particularly with reference to getting the last speech to the jury; is that correct?

A I don't know if it is peculiar; but if the defendant puts no witnesses on the stand, the defendant gets the last speech.

Q Might Mr. Achey have been thinking of that when he refused to put on any witnesses?

A I don't know what he was thinking about, but it could be that—May I just interpolate this? The other counsel, in these Foster cases, didn't put on their clients; they thought for some reason sufficient unto themselves that trial tactics dictated that they not testify.

Q Were you present at the hearing before Judge Murphy when Judge Murphy asked Darcy if he wanted to testify?

A Yes. I heard you read from the record. But my recollection is erroneous; it is that Mr. Margiotti objected to his being asked.

Q You heard, nevertheless, the answer that Darcy made in that he refused to testify?

A Yes.

Q So that Darcy did have a chance to testify, at least, before Judge Murphy?

A He had a chance to testify in the lower court. He always had a chance to testify.

Q Would you be able to give us—you are now a Judge in Bucks County and you know some of the works of the Board of Pardons in receiving letters from them and knowing something about the work of the Board of Pardons, do you not?

A Yes.

Q Would you be able to give us any concrete suggestions that you think this Committee should consider?

A You are asking for concrete suggestions. I would have to say no.

I do think that there should be examination into the question as to whether or not some better method cannot be provided. The personnel of the Board of Pardons are not, by reason of office, necessarily qualified to in effect act as an appeal board on sentences imposed by the Court. We hear the witnesses. We see the defendants. We may try a case for days at a time, and you necessarily get a different—not a different impression, necessarily, but you can't get the same reaction as an attorney does from reading the printed word as you can from the trial of the case.

I would have to agree that anybody, any group, would be in the same position. But I think there might be some inquiry as to whether persons who are more—except by chance—acquainted with precedures before criminal courts and criminology in general, and the properity of the imposition of sentences in cases.

Q You think that in this particular case that you heard, the reasons set forth by the Pardon Board in their opinion that they were making an interpretation of the law of the land as given in the dissenting and majority opinions and basing something on them?

A I would have to answer yes, just from the answers that I heard. I think they were implicit in the answers as given.

Q. Do you think it is a good procedure as a matter of policy to have the Board listen to counsel, or counsel make statements which are not borne out by the record, without consulting further decisions in such an important matter as a reduction of a death penalty to that of life imprisonment, such as has been done in this case?

A I suppose you have specific reference to Mr. Fried's reference to Judge Boyer's condition.

Q And Miss Blatt's statement that it was a situation on which she could rely because it was a statement of counsel. I am not attacking her discretion. I am just asking your opinion on that matter for consideration by this Committee.

A I think any statement by counsel in such a matter is likely to be coloured by the counsel's position in the case.

Q Is Mr. Freid a reputable attorney?

A Oh, a very reputable attorney; and I must confess that if he said so, that was his opinion.

Q That is what I asked you.

A. But I think if someone else asked the same question they would have gotten an entirely different answer.

Q So, as a matter of policy, is it fair for the Board to rely on that type of statement in consideration of such a serious action and with the nature of the case involved?

A I think I would hesitate if I were in that position. Let me give you an example. This is only from recollection. I think that the application to the Board of Pardons said that Judge Boyer sat next to me in the trial of the case, or some part of it. That is not only not correct, but I don't believe there is any evidence anywhere to support it. But it was a statement, I think, in the application.

Q It was a statement by Miss Ford three years after—I think it is in the application to the Board of Pardons. But it has been some time since I looked at it.

Q I have no other questions, unless you would like to add something. I think it might be relevant in helping them consider the facts that you think should be considered here.

A. No, I don't think so, except one thing that I have never had an opportunity to refer to. There is some testimony adduced that a note was passed to me. The inference was, I think—not an inference; the statement that the note was given to me by Judge Boyer.

Q That was made by Margaret Gordon, who testified.

A There are two facets of it that I have to explain that I don't believe are understood.

One of them is that a note could well have been passed to me by Judge Boyer. If any communication by telephone was made to me during the trial of the case, it went to Judge Boyer's secretary. It might have been, "Call your office before you leave the courthouse." It might have been—not to be facetious—"Bring home a pound of hamburger." It could have been that Judge Boyer passed me such a paper. When I was asked whether I received any note during the course of this trial from Judge Boyer, with reference to his charge, my answer was that to the best of my recollection I did not. I stand on it.

The Court seemed to indicate that because I said I didn't recall too directly, that I was misrepresenting the truth, because if it had happened, I must have remembered it. It seems to me that the rationality of it is that if it did happen, I am convinced I would remember it; but the only intellectually honest answer is that I still have no recollection and I don't believe anything of that kind ever occurred.

Q. That, was again, a matter that was raised three years later?

A That is true. I don't want to get into the trial of the Darcy case, Mr. Kohn. That is a matter I would like to clarify.

Q You heard, of course, Miss Blatt read the basis of the dissenting opinion of the Supreme Court of the United States and place some emphasis on that one page; did she not?

A. I did not hear her read it today, but my recollection is that it was referred to.

Q Your honest statement at that time was that you didn't recall; but it has no significance in the case if it was?

A It is not a matter of memory. It is a matter of intellectual processes. I think I would have remembered it if it had occurred. By answering that I had no recollection of it, and the Court saying that if it had happened, I would have remembered it, it seemed to me that the only logical conclusion was that it didn't happen.

Q They interpreted it as it did happen, which placed a great deal of dissenting opinion on it; is that it?

A That is right.

MR. KOHN: That is all.

BY SENATOR SCOTT:

Q Judge, I am intrigued by the last bit of testimony on your part as to the passing of the note. Was there any question raised as to what the substance of the note was? Or was it just that a note had been passed from the Judge to you?

A I am unsure at this time, Senator. I think there was an implication from the sequence of events that it occurred during Judge Keller's charge. I think the point that was raised was that—my recollection is that Judge Keller made in unimportant—well, a mistake—in his charge near the conclusion of it, and it was inferred that if he had and it was called to my attention, I should have interrupted him right then and told him, which every trial lawyer knows would not have happened, could not have happened to me—if in the middle of the trial, counsel had interposed an objection—

Q Judge Keller was trying the case?

A Yes.

Q The note that was supposed to have been sent to you was sent by whom?

A Judge Boyer, who was supposed to have passed me a note.

Q Where was he sitting?

A. Not next to me—further than anybody here.

Q Merely as a spectator in the case?

A That's right.

BY MR. KOHN:

Q You only have one courtroom there?

A. No. We have three courtrooms, actually.

BY REPRESENTATIVE LOPRESTI:

Q I heard Judge Boyer tried the other cases before.

A Judge Boyer tried the Zietz-Foster case.

Q And that had been just a few days before?

A According to the beginning or end, I think it was started about a week before the Darcy case.

Q Now, we have heard twice reference made to the fact that Judge Murphy asked Darcy whether he wanted to testify.Is it a practice for a Court on an appeal to take testimony?

A Well, he was directed to take testimony. Whether to take testimony of the applicant, the defendant, I would hesitate to answer; but Judge Murphy was taking testimony.

BY CHAIRMAN TOMPKINS:

Q This is not an appeal. This was a hearing on a habeas corpus proceedings?

A. As far as I know, that is the only hearing in which there has been produced this various evidence that has been referred to.

BY REPRESENTATIVE LOPRESTI:

Q Were you here when the record or some portion of it was read, and the question asked of Mr. Darcy, "Do you wish to add anything to which your counsel has said?" Isn't that what actually took place, and not a request to testify? Isn't there a difference, Judge?

A Yes, but as I heard the record, and I didn't hear it clearly, and my recollection was that there were two parts to it in effect, whether he wanted to say anything, or add anything, and my best recollection was that Mr. Margiotti objected to the question being asked I will have to stand on the record, but that is my recollection.

Q I would like to stand on it, too. Could we refer to it? It would help.

A (referring to record) To answer your question directly, Judge Murphy said, "We notice that the defendant, David Darcy, has been in this courtroom from the beginning of this proceeding throughout every session until this moment. We now direct this question to David Darcy, himself, the defendant. Mr. Darcy, is there anything you have to add to what has been said here throughout this proceeding, anything you want to add on your own behalf? You have a right to testify as a witness." You see a little change here "You have a right to take the stand and you have a right to tell this Court anything that you think will add light to this proceeding. What is your wish?"

There is no record here of any objection by Mr. Margiotti to the question, although that is my recollection.

David Darcy says, "No, Your Honor."

"You don't desire to add anything to what your lawyers have done and what has happened in this courtroom?"

"No, Your Honor."

"Do you have confidence in your attorneys who are in the court at the present time?"

"I do, Your Honor."

BY REPRESENTATIVE BELL:

Q. Judge, I have a question that is not entirely germane, but I was very much interested in this business of polling a jury. Is that a common practice in Bucks County?

ATTORNEY GENERAL McBRIDE: Voir Dire, I think you mean.

REPRESENTATIVE BELL: No.

A There are three possible things implied in your question: polling a jury after a verdict, which takes place before the Court; that is customary in a capital case.

Q I don't mean it that way.

A If you mean after a verdict, where someone in behalf of the defendants goes to the jurors and asks them what they would have done under certain circumstances, I would say that is not only often done, as far as I know, but it would certainly be looked upon with complete disfavor; and I think the Supreme Court has said so frequently. It is an improper practice.

Q Would that tend to intimidate future jurors?

A I think you would be in as good a position to do that as I would. I think that the objection to it is that what happens in a jury room, what takes place, should be rather sacrosanct among them and they should not be interrogated afterwards as to what anybody else said or how they felt about it; but in this case, you see, we have no way of knowing. You don't and I don't know the circumstances under which these letters were obtained.

Now, I certainly cannot say that they were bludgeoned into giving these, but we have no knowledge of the representations that were made.

BY MR. KOHN:

Q Did you hear the rumor that they were paying $20 a piece for them, paid their way to Scranton—I am serious about this—did you hear that in Bucks County?

A I hesitate to answer that.

Q Did you hear anything about having been paid for letters, either a day's wages or—

A What I heard was so indefinite that I would not dignify it by saying that I heard anything about it.

BY REPRESENTATIVE BELL:

Q Do you think this practice of visiting jurors after a case is finished and getting them to write letters should be a matter for legislation prohibiting such?

A I think that might be a wise thing. I don't think that those letters should be too seriously regarded, as I understand the prior witness. At one time I thought she said she placed a great deal of weight on those letters; but at another time I thought she said she didn't regard them as being important. I thought she said she lent a great deal of importanca to those letters, and if that were so, I don't think it ought to have been done.

BY CHAIRMAN TOMPKINS:

Q Judge, when did you first learn about an effort to obtain these letters? Did you know about it at the time the jurors were being contacted or did you learn it just recently?

A Mr. Tompkins, you have to understand that while this was going on I wasn't interested in the Darcy case or the Foster case or the Zeitz case. I was on the bench. District Attorneys have intervened. I was the trial District Attorney. Then came Mr. Curtin, who is no longer an officer. Then there was another District Attorney. I didn't take any keen interest in what was being done in obtaining those letters.

Q Did you have knowledge of it being done at the time it was happening, do you recall?

A I think it first came to my attention at about the time the Supreme Court passed on it. I think it was on one of those case that were referred to.

Q Judge, I think you spoke about something about the intervening time between the verdict and the time sentence was imposed. Did a considerable period of time elapse between those two dates?

A I meant to refer to the sentence being carried out. If I said "sentence imposed," "sentence carried out" is certainly what I meant to say.

Q Was there any particular length of time that elapsed between the verdict and the imposition of the sentence?

A I think not. Certainly nothing unusual about it.

Q Did you receive notice of the application for commutation on both cases when they were filed with the Board?

A I must have. I remember definitely that I received it in the Darcy case, because I replied to it.

Q What position did you take with them?

A I strenuously opposed it. I did say in that letter that it must be borne in mind in fairness that I was the District Attorney that tried the case; that I know that Judge Satterthwaite, who was with me on the bench, would agree with that; and Judge Keller wrote a separate letter in which he expressed his feeling in opposition.

Q Judge, during the course of the trial of the Darcy case, were there any undue demonstrations or commotions or disturbances by the spectators in the courtroom?

A No. You must bear in mind that the Zeitz case had been tried the previous week. The Darcy case, in a sense, was an anti-climax. In other words, people would have heard a repetition of what they heard the prior week. I don't believe—this is naturally to the best of my recollection—that there was as much interest in the Darcy trial as there was in the Zeitz-Foster trial.

Q Were there any such factors involved in the Zeitz-Foster trial?

A No, not as I understand the word "hysteria." I think everyone will have to agree that this was a dastardly crime, or series of them, and the public, not being lethargic, reacted unfavorably to it. It does not follow that there was an air of hysteria during the trial.

Q Was the courtroom at all times packed, if you recall?

A No. I recall and would say it was not.

BY MR. KOHN:

Q Judge Biester, isn't it a dangerous thing for the ordinary processes of the law to reopen cases either before a Board of Pardons and to consider the facts, or before the courts of law, go out and give jurors hypothetical questions as to something that might have been introduced that might not have been admissible under the law; wouldn't that upset the entire process?

A It seems it would certainly do it. Here you have an exparte situation. You don't have the District Attorney or the prosecutor saying, "Well, maybe you didn't know this against the defendant." When you only hear the one side of the situation I don't know how reliable the person was. I don't know the man who went to see them or what he said; but I don't think those letters should be seriously regarded.

Q And in obtaining letters of that type, the person who goes out to obtain them might add a little on and present to the jurors some evidence which might not have been admissible under the rules of evidence; isn't that possible?

A The question answers itself. I do not think a lawyer would do it. I think he would realize it is very improper practice. I think it would be very poor advice if a lawyer asks someone to do it on his behalf, especially in light of the opinions of the Supreme Court on that point.

BY ATTORNEY GENERAL McBRIDE:

Q Do you know any expression of the Supreme Court against it prior to this case?

A I couldn't, if you ask me to cite any cases, I think not; but I think the Supreme Court referred to other cases, did it not?

Q I am not sure one way or the other. They may have.

A I don't think this was a case of original impression. I think the Supreme Court, as I remember it, referred to other cases.

Q We can certainly agree that a jury that has deliberated and delivered its verdict cannot impeach that verdict by saying that if they had other evidence, they would not do it; but in view of the fact, whether it was correct practice or not, that the jurors did state that they had heard "a" from the defendant, and "b" from character witnesses, they would have voted for life imprisonment, would you say that those letters coming to the attention of the Board of Pardons, whether it was good or bad practice in getting them in the first instance, should be totally disregarded?

A I would say they should be totally disregarded. Let me enlarge on that for a moment.

The implication is that character witnesses would be called to show that these people were of good reputation. Suppose the Commonwealth says they were of bad reputation. Suppose the defendants took the stand, and in taking the stand, they admit a great many more things that they did not admit by reason of their statements. I don't think anybody could say that because they took the stand, it should mitigate in their favor, or because character witnesses were called, or without knowing what they were going to say, that should mitigate in their favor.

Q No. There were answers on both sides that the jurors didn't consider. As a matter of fact, Judge, I wish to go into that aspect with you now. It is a fact, is it not, that, as part of the Commonwealth's case in chief and before the defense ever started, that evidence of the other atrocious crimes was offered by the Commonwealth and received by the Court?

A That is correct.

Q Now, the Act of 1947 as it then stood prescribed such admission, did it not?

A Well, if you and I are going to get into discussions as to what that Act meant, I must confess it is years since I looked at it. I had grave doubt at the time as to what it meant, and the Supreme Court said it wasn't clear as to what it meant.

Q Judge, I think I have to review a little bit with you because I, myself, had said that I wanted to do justice to a dead man, and you likewise want to do justice to a dead man, Mr. Achey, who represented this defendant, and, therefore, we want to try to show, if I may briefly, what confronted him at the time he took the course that he did take.

Now, the Commonwealth did put in evidence the prior crimes, did it not?

A Yes, and subsequent.

Q And crimes subsequent to the murder itself?

A That's right.

Q But all of which were proper, of course, to this trial?

A Yes.

Q And they spanned a period of three weeks or a month?

A Thereabouts, yes.

Q Therefore, Mr. Achey was confronted at that time with—by the way, he did object to the introduction of those criminal records, did he not?

A He strenuously objected to them.

Q And he objected on the grounds that the Act of 1947 specifically forbade their introduction?

A That is correct.

Q You and the Court took a different position. You took the position, (a) that the Act of 1947 did not forbid it, or that if it did forbid it, it was unconstitutional?

A That is correct.

Q Now, therefore, Mr. Achey, having made that objection, had to stand on it, didn't he? He had to choose either to waive that objection by putting the defendant on the stand and thus subject him to cross-examination on those prior offenses, or to stand upon his legal position that he had taken, hoping it would be sustained.

A I think that is a reasonable explanation.

Q Sure. Now, the Act itself, I would like to read it to show what it said, that in the trial of any person charged with crime, no evidence shall be admitted which tends to show that the defendant has committed or has been charged with or has been convicted of any offenses other than the one wherewith he shall then be charged, or that he has been of bad character or reputation, unless —that is the general rule that has just been enunciated, isn't it?

A Yes.

Q The exceptions are as follows: "He shall have at such trial personally or by his advocate asked questions of the witness for the prosecution with a view to estab-

lishing his own good reputation or character, or have given evidence tending to prove his own good character or reputation."

He didn't do that, did he?

A No.

Q Therefore, that exception doesn't apply.

"2, he shall have testified against a co-defendant charged with the same offense"; he didn't do that, did he?

A No.

Q And the third says, "The proof that he has been committed or convicted of such other offense is admissible evidence as to the guilt or the degree of the offense where he is then charged."

Now, none of the other offenses, the other robberies, burglaries, constituted evidence that he was guilty in the Feasterville holdup murder, did they?

A No. I will have to take exception to that.

Q What one did?

A The Lackerman, the one that followed, I think it was the Lackerman holdup. The one that followed was introduced in evidence for a number of reasons, to show the identity of the persons, to how a course of conduct, method, to show that they were in the vicinity when this occurred, and possibly other reasons not related, I think you will have to agree, to the act, because they tended to prove the commision of this crime.

Q Let me yield on that point because I will not debate it. How many in addition to the Lackerman case were offered in evidence?

A My recollection is seven.

Q So that seven which did not tend to prove guilt in the Feasterville murder were introduced, and one which did tend to prove guilt in the Feasterville murder was introduced?

A Yes. I don't remember the relationships of time on the other offenses, and I can't say absolutely without any equivocation that there was no relationship between the others and the one in which the murders were committed.

Q Let us put it in the affirmative. You do not now assert and you did not assert then that there was such a relationship, did you?

A No; but to say I don't assert, that doesn't mean it is not so, because I don't remember it.

Q But you never did assert it, did you, Judge?

A I will be intellectually honest and I will say that I am not sure.

Q I am deeply impressed by your desire to be completely fair.

In the Supreme Court of Pennsylvania the question of constitutionality was argued, and the majority held that the Act was unconstitutional. You heard my statement about the one aspect of its relating to Article III, Section 3, that the defendant did not have notice of what the Commonwealth was doing. The other aspect was that the Court held that the words, "or the degree of the offense" rendered it ambiguous; but there was no question in this case about the degree of the offense, was there? It was either first degree murder or it was nothing.

A I think that one of the lower courts said that that word, those words, reflected upon the penalty.

Q Yes. That was not agreed to by the Supreme Court of Pennsylvania; is that right?

A The Supreme Court of Pennsylvania said it didn't know what it meant.

Q The dissenting opinion by Justice Jones, which was filed in the Depothy case acknowledged the connection the two in the dissenting opinion, in the Darcy case, did it not?

A You mean the two cases?

Q Yes. The question was precisely the same.

A Precisely the same.

Q And the dissenting opinion by the then Justice Jones refers in his opinion in the Darcy case to the fact, that is, reasons for dissenting, that had been stated in the Depothy case.

A I think you and I are in accord that the constitutional question was decided as the result of the arguments in the Darcy case, but because the Depothy case had precedence in time, the opinion of the Depothy case is regarded as the lead.

Q The main burden of that argument was shared by you on one side and by me on the other.

Now, in connection with the point of time in the trial of Foster and Zeitz, the trial started a week ahead, but it ended on the Friday proceding the date when David Darcy's trial started, did it not?

A I haven't examined the record. I would say that is approximately correct; yes.

Q So that if it ended on Friday, the very next trial day in the normal course of events was the day on which David Darcy's trial commenced?

A That's right.

Q Now, Judge Boyer had been the trial Judge in the Foster and Zeitz cases, where they were tried together?

A That is right.

Q After the jury condemned them to death, he stated that he approved thoroughly of their decision, did he not?

A I don't remember. I think he did, but I don't remember.

Q You don't remember that that was given rather wide publicity?

A I remember that something he said at the conclusion of the Zeitz-Foster case and after the jury returned, was given wide publicity. The precise words I don't recall. As I recall, it was said that he made some remarks of commendation, approving the verdict. I can't adopt it as a fact, but I believe that is so.

Q Now, then, on the next trial day, Darcy was tried before Judge Keller?

A Yes.

Q Judge Boyer was not assigned to that court, was he?

A No.

Q There is no normal reason for his being in that court, was there?

A Let me put it this way, I don't think it is abnormal for another judge to hear a case, any criminal case.

Q Well, Judge Biester—

A I think he sat on the bench with Judge Keller rather briefly. Mr. Achey objected to it and he left the bench.

Q And then took a seat in the courtroom itself?

A Not continuously. He occasionally occupied a seat in the courtroom.

Q And that was quite obvious to everybody in the courtroom, there was nothing to prevent the jury from seeing it?

A Nothing to prevent the jury from seeing him? No, nothing to prevent the jury from seeing him while he was there.

Q Judge Biester, have you ever tried a case, allied with another case, and then come into the courtroom and sat around as a spectator?

A I don't want to answer to imply that I think it is an entirely improper practice. I don't recall a situation like that where there were cases tried in sequence. If a case was tried in sequence, I would regard nothing improper—rather, that it was required that I isolate myself from the courtroom where the other cases were tried.

Q Did you ever know in Bucks County this situation to arise, where a judge has just presided at a capital case, where two young men were found guilty with the death penalty fixed, coming into the courtroom where a third co-defendant was to be tried, and sitting around watching the case?

A You would have to ask me the first part. I don't remember the sequence of events occurring in any other case. That is, I don't recall a situation where two young men were tried and convicted and received the ultimate punishment by the verdict of the jury, and then subsequently a third accomplice in the same case was tried. I don't remember a situation like that.

Q But you do remember cases where there was more than one defendant, and the two were tried separately? That has definitely occurred in Bucks County?

A Many times in the same trial the judge tries them.

Q But have you ever known a trial judge participating in one trial come in and sit as a spectator in the second trial?

A I will have to say in all honesty that I don't recall that sequence of events having occurred.

Q The sequence of events of two men being tried separately—

A Tried on a capital offense, tried separately, where different judges tried them in sequence. I don't recall. It may have but I don't remember.

Q Do you recall the Wiley and the Farrell cases?

A Yes, I remember those cases.

Q They were tried separately, were they not?

A I don't believe they were.

Q You mean that Wiley and Farrell were tried together?

A I am not sure. You see, you are going back into—

Q I know I am. It makes both of us seem a little old.

Q Twenty-five years ago. I wouldn't be sure they were tried together, or whether they were not.

Q Now, you have conceded the possibility that Judge Boyer did send you a note about an unimportant subject, or hand you a note about an unimportant subject?

A Yes, I readily concede that. It could have happened and my not remember it—how many years later? Eight years later.

Q But if it did happen, Judge Boyer, who had commended the jury on fixing the death penalty, only a few days before, handing you a note in open court might very well have a tremendous effect upon the jury might it not?

A I think that is extremely unlikely, Mr. McBride.

Q You do?

A Yes.

Q Bucks County is not a large county, or was not then, was it?

A Well, I don't want to talk on behalf of Bucks County. You all know it is the largest growing county.

Q I should certainly say it is.

A That is certainly not measured as a small county today.

Q But Judge Boyer was well known in that county, wasn't he?

A Yes, well known is an expression—I would have no way of knowing whether one of those jurors even knew who Judge Boyer was.

Q You wouldn't say Judge Boyer sitting in that courtroom would pass unnoticed by the jury, would you?

A I wouldn't know.

Q Well, particularly—

A First we have to say that the jury would know who Judge Boyer was—

Q You say he sat on the bench beside Judge Keller?

A Very briefly.

Q They would know he was a judge, wouldn't they?

A That is true.

Q And then if he subsequently occupies a position in the courtroom itself, they would know that this same man who sat upon the bench—

A Was a judge.

Q —was a judge, and who is now sitting in the courtroom?

A That's right.

Q Having a knowledge of human affairs such as you have, Judge, don't you think the jury would wonder and wonder whether Judge Boyer's interest was in this case?

A Well, the jury would wonder and wonder whether—I wouldn't know how the jury would feel about it. I can't agree that I would think that the jury's attention would be diverted to the fact that Judge Boyer was there and why he was there. I don't know. They may or may not. I don't know.

Q The case itself, prior to its being heard, had been the subject of a lot of newspaper comment, had it not?

A Yes.

Q The result of the Foster-Zietz case was well known to the citizens of Bucks County community who made up the jury, was it not?

A You yourself understand how difficult it is to ask a generalized question like that. Unquestionably a great deal of the community knew about the case. Percentagewise, how many of the jurors were acquainted with it, and in what detail, I would have no way of knowing.

BY CHAIRMAN TOMPKINS:

Q The jurors were all questioned on voir dire?

A They were all questioned, and they were accepted after inquiry as to their prior knowledge of the case, and if they had any knowledge of it, whether that would affect their verdict.

BY ATTORNEY GENERAL McBRIDE:

Q Not all of them were asked that, were they? I have just noticed in the record, going over it very hurriedly, that some were not asked, for instance, about their attitude as to capital punishment, and as to their knowledge of the case itself. Don't you remember Mr. Mar-

giotti pointing that out in the hearing before Judge Murphy?

A No. You see, I wasn't there during the whole hearing before Judge Murphy.

Q That's right. Now, to get the record straight on Judge Murphy's hearing of the testimony, there was a writ of habeas corpus presented to Judge Murphy which he summarily dismissed without hearing?

A If you say that is so. I think it is so. Some of these things I can't adopt as fact simply because it is not according to my recollection.

Q See if this refreshes your recollection. An appeal was taken to the Court of Appeals which directed that Judge Murphy examine into the truth of those allegations.

A I believe that is right.

Q And, therefore, the hearing at which you were called as a witness was held by Judge Murphy after the Court of Appeals had directed him to hold it.

A I think that's correct.

Q Now, I was not called as a witness by anybody, was I?

A Not anytime I was there.

Q I wondered about that.

A I didn't have anything to do with the witnesses.

ATTORNEY GENERAL McBRIDE: I think if the Committee will let me join with Judge Biester, I would like to make a short statement. He has spoken about Mr. Achey. I myself have felt that as a matter of conscience I ought to state it, that Mr. Achey was motivated by the highest motives. He did what he thought was right in not putting David Darcy on the stand. He did what he thought was right in not calling character witnesses. He was moved to do so, and Mr. Kohn said I advised in the case. I received a telephone call one time from Mr. Achey, who told me that he proposed to take that course of action, and that he was going to adopt that course of action, and I told him that although I had nothing to do with the trial of the case, if I were trying the case, I would adopt the selfsame course of action. I think, therefore, Mr. Achey acted in good conscience, and in accordance with what he believed his duty to his client to be, and if I had been there, I would have made the same mistake, if it was a mistake, that he made.

CHAIRMAN TOMPKINS: These are based on the statements he made to you?

ATTORNEY GENERAL McBRIDE: Based upon his decision. And I feel that in justice to him and in justice to the bar of Bucks County, it is my duty to place that statement of record. Others may differ. It is a free country, but—

CHAIRMAN TOMPKINS: You wouldn't allege any incompetency on Mr. Achey's part?

ATTORNEY GENERAL McBRIDE: I did not. I know the reason for his decision. Mr. Margiotti apparently did not. I knew it, and I was not consulted by anybody, either the Attorney General's Office, or either side to this case, I was never called to testify, but I knew that Mr. Achey was depending upon his legal position, and after the case was over and I was asked to take an appeal to the Supreme Court of Pennsylvania, I attempted to make good that legal position, and that was the end of my participation with the case. I was not connected with the trial in any way. But I feel in justice to Mr. Achey and his memory, I should say what I have said.

THE WITNESS: May I just add one thing. It is of no grave importance, you will determine it from the record, but my best recollection of the number of instances involved was nine, during which I recall six people were shot.

MR. KOHN: Seven, I believe.

THE WITNESS: I don't know.

ATTORNEY GENERAL McBRIDE: I wasn't up in Bucks County or have any participation in the trial, did I?

THE WITNESS: No.

CHAIRMAN TOMPKINS: I would like to ask the General another question with respect to the statement. Would I be right in inferring that you would disagree about any complaint about competency of counsel?

ATTORNEY GENERAL McBRIDE: Yes, I do. I agree that those who have disagreed with Mr. Achey's handling, Mr. Margiotti was a good lawyer and he didn't agree, and others didn't agree, and they are entitled to their opinion. Mine is different.

CHAIRMAN TOMPKINS: Your feeling is it would be in conflict, as I understand, one of the reasons for commutation—

ATTORNEY GENERAL McBRIDE: I think in the case as it developed in the Federal Court and as it was presented to the Board of Pardons, it is my view that the Board of Pardons was fully justified in taking the position it did. I feel also that because of the personal knowledge I had, which neither the Commonwealth nor the relator called upon me to give, that had I testified, I would not have agreed with that. But that doesn't mean that I think the Board of Pardons was wrong. I think on the record as it came up to them, the Board of Pardons was fully justified in the position it took. It is just because I happen to know this situation, and the constitutional problem, and Judge Biester and I argued it in the Supreme Court of Pennsylvania, that I was in a position to make this statement, and I make it simply because I think I am called upon to do it.

CHAIRMAN TOMPKINS: There are implications in the reasons filed by the Pardons Board as to the competency of counsel. They don't mention counsel, but it is generally accepted that they were referring to Mr. Achey. We can't get any other inference from a review of the case and testimony taken at habeas corpus.

ATTORNEY GENERAL McBRIDE: It was clearly Mr. Achey that they were referring to. And I say, on the case as it developed, the Board of Pardons, in my opinion, was justified in coming to that conclusion. Because of the personal knowledge I had of Mr. Achey's reasons for acting as he did, which was not apparent to the Board of Pardons, apparently not apparent to Mr. Margiotti or anyone else, I would not have come to the same conclusion.

CHAIRMAN TOMPKINS: Then you would not have made a finding had you been a member of the Pardons Board that there be any question of competency of counsel?

ATTORNEY GENERAL McBRIDE: Only because of the personal, unique knowledge I had on the reasons why Mr. Achey acted as he did.

BY MR. KOHN:

Q Judge Biester, I would like to ask some questions. You noticed from the letters obtained, "To Whom it may Concern," that in none of those letters was any mention made of this note-passing incident, or that Judge Boyer had any effect on them? If that had been of some importance, it would have been in those letters as a logical conclusion?

A I can't say that I agree with that altogether, Mr. Kohn. I don't know the circumstances under which these letters were obtained. I think if any credence should be placed on the letters, there should have been—it didn't take a board of inquiry. Somebody could have written letters to these people and asked how these letters were obtained and under what circumstances.

BY ATTORNEY GENERAL McBRIDE:

Q The District Attorney never conducted any investigation, did he?

A I am not sure.

Q Do you know of any investigation that the District Attorney made as to the—

A No, but I can say this, that once it was stricken from the record, it is my recollection they were, there wouldn't be occasion for the District Attorney to contravene something that was not part of the record.

Q Well, if as Mr. Kohn suggested, $20 was offered to one of these jurors—

MR. KOHN: I didn't say that.

BY ATTORNEY GENERAL McBRIDE:

Q —whether the letters were stricken from the record or not wouldn't preclude the District Attorney from finding out whether or not there was something improper in such solicitation?

A Obviously it wouldn't preclude him, no.

Q So far as you know, he didn't do it.

SENATOR SCOTT: Mr. Kohn's question was whether the Judge was familiar with such rumors as I understand it. We don't know whether the District Attorney was familiar with the rumor or not.

BY MR. KOHN:

Q One other question, Judge Biester. On the matter of Miss Blatt's statement that she felt that because Darcy was commuted, she felt that should have consideration in the Zietz and Foster case. What do you think of that matter? She cited the reason that Capone, 16 at that time and wha psychiatrically had the intelligence of a person of 12, do you think that these cases of 16, the Pardons Board should take that in consideration and commute the sentence of the one who pulled the trigger? What is your opinion?

A There are several questions there. I think there is a clear distinction between one from the other. You must bear in mind Capone was the lookout man and remained in the car, he was younger. He was of comparatively limited intelligence, and he did not fire any of the shots. You must understand not only Zietz but Foster and Darcy also fired shots during the holdup. Capone did not. The fact that Capone—and the fact he was younger—the fact that his sentence was life imprisonment should not be a controlling factor. I think there could be a much stronger case made out for Capone if there had been a death sentence after a plea of guilty than for the others. As to Zietz, Foster and Darcy, I must confess, although I have difficulty in rationalization of it, and I think you could logically argue that if the basis of the commutation of Darcy was an alleged unfair trial, and there is no implication whatever that Zietz and Foster received an unfair trial, that the fact that there was an implication—of course, I am not agreeing with it—that there was an unfair trial, it should affect Zietz and Foster. Yet my innate sense of fairness indicates if Darcy should not go to the chair, neither should Zietz and Foster.

Q Do you subscribe to the theory if they ask for severance, and the jury is hearing the case, in each case the Pardons Board should reduce the sentence to the minimum given in the case?

A That is a different question. It seems to me there the jury in each instance has passed on it, and I think what the jury finds after a verdict is extremely important. No two men are in the exactly same situation subjectively and objectively in any crime. I can't agree with Miss Blatt that because these people were equally guilty under the law, that it should necessarily follow they should receive the same punishment. You could take a situation where under the law four or five people would be implicated and one might have had a very criminal record, one might have been a gun man, and a great many other factors, all might be guilty of first degree murder. Some should under our procedure receive the ultimate punishment and some should receive life imprisonment. I can't logically say that because they are equally guilty technically of first degree murder they should receive the same penalty. And I don't believe if the jury finds "A" guilty with life imprisonment and "B" guilty with the chair that that should be influential and all receive the same punishment. They are different cases.

BY ATTORNEY GENERAL McBRIDE:

Q Do you know why, during the course of the year, both Foster and Zietz received so many reprieves, even though there were no judicial proceedings pending?

A Do I know why? No. I can only say that it would appear to me that Ziez and Foster cases were to be considered in the same category as Darcy, and it appeared to be innately unfair to postpone the one until its final determination and yet execute the other two.

Q And therefore you would say that your best judgment on the matter would be that when both Governor Duff and Governor Fine reprieved Foster and Zietz, it was with the idea that whatever ultimate treatment Darcy got should be accorded to them?

A I think it is a logical conclusion that's what they had in mind.

Q You indicated it was pretty rough to prepare these men for execution—let's say on three occasions, let alone twenty, or as many as there actually were—but you said also that in Darcy's case it was because he himelf caused that result by properly invoking the court procedures that were open to him, but that reason doesn't apply to Foster and Zietz, does it?

A No. The same reason doesn't apply to Foster and Zietz. What I dislike is the thought that we are possibly conceivably establishing a precedent that says if a prisoner under the death sentence is commuted a sufficient

number of times, it follows he has received sufficient punishment and therefore his sentence would be commuted, when in point of fact the machinery of delay is set in motion by his own counsel. Now you are perfectly right in saying nobody did this on behalf of Zietz and Foster. But I have always thought of them as being in the same category, that is to say, if one was postponed, the other should likewise be postponed, and to be straightforward and honest in my answer, of couse I can't say Zietz and Foster brought about their own postponement.

Q Therefore, the Act says a man shall suffer death by electrocution, it does not say he shall be kept in separate and solitary confinement, that he should be kept in a place lighted 24 hours a day, that he shall be segregated from his fellow-man, and this go on for five or six years, and then electrocuted, the statute doesn't provide for that, does it?

A That is again the kind of a question that answers itself. Obviously, it doesn't provide for it.

Q But had Foster and Zietz been electrocuted when Darcy lost his final appeal, the net effect as to them would be that they had been kept alive, that they had been prepared for death on a number of occasions, that they had been kept in separate and solitary confinement although no judicial action was pending, and then electrocuted, isn't that right?

A That is true.

Q We have been thinking of this as the Darcy case. We have to think of it also as the Foster and Zietz case, musn't we, that that would be the net result had they been kept alive that long, endured those extra tortures of being prepared for death a number of times, and then executed?

A I don't understand exactly what you mean by the question.

MR. KOHN: I think that is relevant to nothing. I am objecting to the line of questions. In the first place, there is no evidence of that. Mr. McBride stated it twice. I don't think it is true, and in fact the converse is true. I don't see any sense in producing a line of questioning—

CHAIRMAN TOMPKINS: I think Judge Biester already stated his position in that matter, to the effect that he doesn't like the thought that you might establish a precedent, because before a man reprieves, it is more likely for his sentence to be commuted because they probably think he suffered sufficient punishment.

ATTORNEY GENERAL McBRIDE: The best answer to that is not to reprieve him.

BY ATTORNEY GENERAL McBRIDE:

Q Any legal difficulty once the remedies were exhausted?

A No.

Q But they were kept alive for a number of years?

CHAIRMAN TOMPKINS: General, you have been making some statements here. There is question about it, these men were up in Rockview from about 1950, middle or latter part of 1950, or nearly '51, until their sentence was commuted in 1956. How many other cases are there in the history of the Commonwealth where men had been kept that long in the death roll, and what is the longer period of time that anybody prior to this had been kept in the death roll?

ATTORNEY GENERAL McBRIDE: I don't know. That is too long.

CHAIRMAN TOMPKINS: I made inquiries at the Rockview Pen and I found out the longest anybody had been kept prior to these men was 17 months in death's row.

ATTORNEY GENERAL McBRIDE: So these fellows got treated worse than anybody in the history of the Commonwealth, that is your point.

THE WITNESS: Wait, I take exception to that. That would mean that the proper thing to have done would have been to execute Zietz and Foster and let the Darcy case be handled separate, that by reason of postponement of Zietz and Foster they were being persecuted.

BY CHAIRMAN TOMPKINS:

Q They were kept on their own choice and not on the choice of the Commonwealth?

ATTORNEY GENERAL McBRIDE: That isn't true as to Foster and Zietz, is it?

BY SENATOR YOSKO:

Q Judge, how many bullets were found in the dead man's body?

A Which dead man?

Q The victim.

A Two men died as a result of this. He was tried on the Kelly case and as far as I know there was one trial.

Q How many bullets found in the combination of those—

A There were three shots; two died.

Q Oh, there were three shots?

A Yes.

Q Three people shot at three other people, is that it?

A Yes.

BY SENATOR YOSKO:

Q There is some question as to who killed at least one of the persons that died, is there?

A That's my best recollection, that there is uncertainty as to who shot Hellman.

BY CHAIRMAN TOMPKINS:

Q To clarify this, Kelly, as I understand it, was shot while on the street, and from the car while these men were fleeing from the scene of the crime?

A That's right.

Q Hellerman was shot in the tavern and there were patrons in the tavern at that time, is that right?

BY SENATOR YOSKO:

Q It was definitely established that one of the victims was shot by one of the defendants?

A Yes.

Q And one of the other victims insofar as he is concerned, it has not been established as to which of the other two defendants killed him, is that correct?

A I think that is correct.

Q Among the three defendants involved, which two are in the category as to whether there was some doubt as to who killed who?

A Kelly was killed by Zietz.

Q That is established. That would be clear.

A I would be uncertain as to whether Zietz, Foster or Darcy fired the shot that reached Hellerman—

BY ATTORNEY GENERAL McBRIDE:

Q Darcy emptied his gun into the floor, is that right?

A My best recollection is that Hellerman and others came from another room towards Darcy with a gun and Darcy fired.

Q In their direction?

A I would have said, Mr. McBride, in their general direction, but possibly downward. I am uncertain about that. But I know he also fired into the phone, I think that is in the evidence. Then there were some other shots fired in the holdup that occurred—what? Half an hour or hour afterwards, although nobody shot.

BY CHAIRMAN TOMPKINS:

Q All three men did shooting in the inn at the time?

A Yes, Darcy, Foster and Zietz all fired shots inside of the inn.

Q That was to terrify them at that time, as I understand, they announced it as a holdup?

A There was some resistance and that's when the shots were fired, some of the shots at least.

BY SENATOR YOSKO:

Q But so far as Darcy is concerned, he either killed somebody, which has not been established, or he was one of the accomplices?

A He was a co-perpetrator of the robbery.

Q I know, but I just want to make sure I got this. But it has not been established that he actually killed somebody?

A My best recollection is no, that is, that he fired a gun and killed someone, I don't believe that was established.

BY CHAIRMAN TOMPKINS:

Q Under the law, while engaged in a robbery he can be held equally guilty with all of the others even though one fired the shots?

A That's right. That's why all went on trial for murder, why Kelly and Capone were tried for murrder.

BY REPRESENTATIVE LOPRESTI:

Q I would like to know whether the law which the Supreme Court held to be unconstitutional, whether that has been re-enacted by the legislature or not. Do you know?

A It has not, to the best of my knowledge.

MR. KOHN: You mean the Act of 1947?

REPRESETATIVE LOPRESTI: Yes.

MR. KOHN: No, it has never been re-enacted.

ATTORNEY GENERAL McBRIDE: It should be.

REPRESTATIVE LOPRESTI: It should be, sounds like good law to me.

SENATOR YOSKO: Mr. Chairman, we usually quit at 6 o'clock. It is now 6 o'clock and I suggest we stop so we can eat.

CHAIRMAN TOMPKINS: Anybody have any other questions of this particular witness?

BY ATTORNEY GENERAL McBRIDE:

Q One question. Did Hellerman testify that Zietz reached over Darcy and shot Hellerman?

A That rings a note of familiarity.

Q How long after the shooting did Hellerman die?

A If you are thinking of the consideration of a year and a day, it was considerably after that, although I personally do not think that would preclude a prosecution for it.

Q You don't?

A No.

Q You feel even though the death occurs more than a year and a day after, there could still be a prosecution for murder?

A I think so.

Q Oh, I thought that was settled. But it is not too material at this point.

BY MR. KOHN:

Q He's just as dead, though, isn't he?

ATTORNEY GENERAL McBRIDE: Oh, sure. I just wanted the record to show why nobody was tried for Hellerman.

MR. KOHN: They were all convicted and faced the death penalty.

THE WITNESS: I think the District Attorney can answer that qdestion.

MR. JOHN: They were obviously under a death penalty.

CHAIRMAN TOMPKINS: Before I recess this meeting I want to make this announcement, for the benefit of those who are here, I will make it again tonight at the conclusion of our hearing tonight.

There have been quite a few people who have appeared here today voluntarily in response to this Committee's request. We are going to recess these hearings until 7:30 this evening. Now, the request which we made to them, if we don't reach them tonight, will continue over until tomorrow's hearing, which will convene at 10 o'clock in the morning. I make that statement in order that those who are here who have appeared here to testify, will know that and won't think that they are at liberty to go home, that their appearance here is no longer desired. Those witnesses which we have heard today of course are excused from further attendance at the hearings. Those we have not heard, we want them to come back at our hearings this evening at 7:30 and then again tomorrow morning at 10 o'clock.

We will recess now until 8 o'clock.

(Recess for dinner at 6:00 p.m.)

This is to certify that the proceedings and evidence are contained fully and accurately in the notes taken during the hearing before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same.

VINCENT VARALLO.
JOSEPH KIESLICH.

Reported by:

Vincent Varallo
684 City Hall
Philadelphia 7, Penna.

Joseph Kieslich
684 City Hall
Philadelphia 7, Penna.

EVENING SESSION

(The hearing resumed at 7:30 p.m.)

CHAIRMAN TOMPKINS: All right, gentlemen, you may proceed.

DONALD W. VAN ARTSDALEN, being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q Your full name?
A Donald W. Van Artsdalen.
Q What position do you hold in the County of Bucks?
A I am district attorney.

BY SENATOR YOSKO:

Q How do you spell your name, please?
A V-a-n A-r-t-s-d-a-l-e-n.

BY MR. KOHN:

Q And you are the present District Attorney of Bucks County?
A Yes sir.
Q Do you know Judge Boyer?
A I did, sir.
Q There has been a statement made in the record by, I think, Mr. Freed that Judge Boyer was not competent and able, physically or mentally—I don't know which—to try the case of Zietz and Foster at the time he tried the same. Did you make any comment to the Board of Pardons on that?

A The record will speak for itself on that, but it is my recollection that I told the Board that I did not think that was a correct statement.
Q Will you read that small portion of it in regard to what you replied?
A "Now as to the questions raised concerning Judge Boyer, Judge Boyer was considered for many years one of the finest judges in the state. I don't believe his illness referred to occurred until after this particular case. I knew Judge Boyer quite well. He received or suffered from a light stroke sometime after that, and then a series over a period of time thereafter."
That was my only statement to the Board on that occasion.
Q Did you also appear before the United States Circuit Court and the Circuit Court of Appeals on this matter as the District Attorney of Bucks County?
A I did in connection with the Attorney General's Office of Pennsylvania.

Q And did the Attorney General, who was then Herbert B. Cohen, file a brief and appear through his deputies before the District Court in the matter?
A He did and took an active part in the proceedings.
Q And did he do some of the questioning?
ATTORNEY GENERAL McBRIDE: Who, Herbert Cohen?
THE WITNESS: He said through his deputies.
ATTORNEY GENERAL McBRIDE: Well then, you mean the deputies questioned?
Mr. KOHN: I mean just what I said.
THE WITNESS: Let me clarify the situation. At the hearing in the District Court before Judge Murphy at that time I believe that Mr. Cohen was not the Attorney General, if I recall correctly. However, there were Deputy Attorney Generals Randolph Rider and Frank P. Lawley who took an active part in the proceedings.

BY MR. KOHN:

Q When did Mr. Cohen enter the picture as Attorney General for the Commonwealth of Pennsylvania?
A Well, Mr. Kohn, I don't know the date.
Q I mean in regard to this case?

A Well, I think probably the first proceedings in which he appeared actively would have been by the Third Circuit Court of Appeals of the United States.
Q And at that time did he file briefs?
A Yes sir.
Q On behalf of the Commonwealth?
A Yes sir.

Q And were those briefs properly signed by him as the Attorney General?
A As far as I know they were, sir.
Q And were the cases proceeded with through his deputy attorney generals before that court?
A Yes sir.
Q And in each of the instances on matters raised before that court by counsel for Darcy did the Attorney General, as was his duty, oppose each particular legal point that was raised by Darcy's counsel?

A The Attorney General's Office, under both the present administration and all prior administrations which were connected with this case, actively opposed the position of the petitioner, both factually and legally.

Q And by factually you mean it included the note to the judge with regard to the alleged hysteria being forced to a quick trial and the ineptness of counsel—all that the Attorney General opposed, did he not?
A That's correct.
Q In fact, he opposed every point that was raised by defense counsel, Margiotti, did he not?
A I would say, yes.
Q Now, did you hear me read this morning the reasons given for the commutation before the Board of Pardons?
A I am not sure whether I heard that or not. I have seen the written reasons that were given by them, however.
Q Did you see that that was signed by Mr. Cohen?

A I haven't seen it personally, but I assume that it was.
Q And his position on that commutation on the points that I have questioned you about is exactly opposite of what it had been before the Circuit Court and the United States Supreme Court, is that not correct?

A That would be a matter of interpretation. I would interpret that there was at least a position taken that was different from the position taken in the appeals before the United States Courts.

Q In other words, when he argued the case on behalf of the Commonwealth, of the courts, he took one position; and when he joined in the granting of the commutation, he took an entirely different interpretation on the very same facts?
ATTORNEY GENERAL McBRIDE: Well, are you testifying, Mr. Kohn?

MR. KOHN: I beg your pardon?

ATTORNEY GENERAL McBRIDE: Are you testifying or are you asking the witness a question?

THE WITNESS: Well, my answer is this. When you say "he," of course, Mr. Cohen served on the Board of Pardons personally. In the appeals he signed apparently all of the papers as Attorney General, The matter was, however, argued by one of his deputies.

BY MR. KOHN:

Q But his position in regard to the legal effect on the matter of commutation was entirely different on the interpretation of those same facts, was it not?

A Well again, that's a matter of interpretation. I would so interpret it.

Q Now the Attorney General raised some implication or presumption here that in regard to the letters that were in question, which were presented by Mr. Darcy's counsel in connection with the jurors who had served at his trial, the implication was that you did nothing about making an investigation of that matter at the time that the letters were called to your attention.

What are the facts on that, Mr. Van Artsdalen?

A I am not sure at what stage these letters first came into the proceedings. I am not sure whether at that time I was an assistant district attorney or was a district attorney, although I think I was an assistant at that time. But it is my recollection that at various times the matter was discussed with representatives of the Attorney General's office, and it was the position of the Attorney General's office throughout these proceedings that those letters were highly improper and the courts have all unanimously sustained that position so far as I know.

BY CHAIRMAN TOMPKINS:

Q Which Attorney General was that?

A Again I say I am not sure at just what stage that transpired, but it has always been the position of the Attorney General's office that it was improper to take those statements of the jurors.

Now then, having taken that position, it was always my feeling—and I am sure that the Attorney General's office agreed with this, and I think that it had been discussed with them, although I cannot give you a precise date—that it would be even further improper for the Commonwealth or the District Attorney's Office to further harass these jurors who had done their legal duty by going around and interrogating them further concerning why or the reasons that they had made these statements.

In addition to that, every court that passed upon this question held it to be improper. That being so, there was nothing for the Commonwealth to controvert so far as those statements are concerned.

Now whether the Board of Pardons could properly consider those, I don't know, but it seems to me that if the Board of Pardons wants to accept or consider certain things that are not a matter of sworn testimony and record, that they should give an opportunity to have those statements investigated or any of those matters under oath, and give the right of cross examination and the other usual matters that are concerned in any sort of investigation.

BY MR. KOHN:

Q Now, Mr. Van Artsdalen, you argued this case last time before the Board of Pardons last time?

A Yes sir.

Q Did you submit a brief?

A No, I didn't. I have had the understanding that it has never been the policy to submit briefs to the Board of Pardons. In fact, I was told that this brief—and I don't know whether this is correct or not—that it was the first time in the history of the Board of Pardons that any written or printed brief had been sumitted to the Board of Pardons.

Q Did you ask whether they wanted one?

A Well, I asked not the Board of Pardons directly. I did ask one of the members of the Attorney General's office and he told me, informally of course, that he did not feel that it would be necessary.

Q Was there a printed brief submitted by Mr. Witkin?

A I am not sure whether it was printed or mimeographed, but there was a brief submitted.

Q Now what impression did you obtain when you argued this case before the Board of Pardons?

A Well, that's a difficult question to answer, as to what impression I obtained. Miss Blatt has testifield, I believe, this morning that she reached her conclusion sometime while sitting up there. I suppose any attorney has argued cases before a jury where he has the impression that the jury is dead set against his position. I can only say that that was my impression in this case, but it is only an impression.

Q Did you attempt to recite the facts during your argument?

A I felt under an obligation because it seemed to me that the question for the Board of Pardons should be the facts of the case itself as to whether it was proper to grant a commutation or not, and I felt, therefore, that I should review rather thoroughly the facts of the various cases, and I did attempt to review them.

I think that one member of the Board made a statement which, of course, is a correct statement, that they had the records of the facts of the case.

Q And they stopped you from giving the entire facts of the case?

A No, I won't say I was stopped or prohibited in any way. It was merely what I would consider a polite suggestion.

Q Did Margiotti ever make any statement to you while he was in this case in regard to the efforts to block Darcy's case?

A I don't fully understand your question, sir.

Q Did Margiotti have any discussion with you about why you did not give up?

A Well, of course, at some of these various hearings up in Scranton and before the Circuit Court of Appeals and the United States Supreme Court, Mr. Margiotti would make purely off the record statements, but I cannot tell whether they were facetious or serious, sir.

Q Now what about these new allegations that Margiotti would raise each time the case went up before some other court? Was that after someone died, or would it be done before someone would have passed away in the case?

A Well, that's kind of a difficult question to answer. The allegations concerning Mr. Achey, I think, were first raised while Mr. Achey was living. I know it bothered him a great deal personally, and he had a very difficult path to follow as to what position he should take. I am thoroughly convinced that that was one of the causes of his untimely death.

Q Was he an able lawyer?

A An extremely capable lawyer.

Q Did Mr. McBride so say to you even before he became Attorney General?

A Yes, I believe so.

Q In discussions in your office?

A I believe so, and as a matter of fact, I think that on the first Board of Pardons hearing, or one of the other Board of Pardons hearings, I think that Mr. Margiotti, or whoever—well, I will retract that, but I think there is something in the record that will indicate that other attorneys for the petitioner have indicated that Mr. Achey was a capable lawyer.

Q This matter in regard to Judge Boyer and his competency, did that ever arise previous to the time of his death?

Q I believe that the original allegations were made before he died, shortly before he died, but I doubt very much—and again it is somewhat speculative, although I was very well acquainted with Judge Boyer. I do not believe that he was ever advised of the situation because of his ill health at that time.

Q Was he in absolute good health, mentally and physically, at the time he tried the case?

A Positively, and I can say that from my own knowledge, although I wasn't even a lawyer at that time when these cases first came up.

I did sit through one of the trials, the first time, and heard a great deal of the other trial. I knew Judge Boyer quite well, have known him all my life, as long as I can remember knowing anyone.

It was about—well, at least after this case, after I became a lawyer, I did try cases before Judge Boyer. He tried many cases and remained active for, well, I think he retired sometime in August of 1949 and was a very active and capable judge up until the time that he retired.

Q As long as Mr. McBride was in this case, there was no question of Mr. Achey's competence or no question of Judge Boyer's participation in any note passing or anything else?

A Well, of course, Mr. McBride has made a statement as to his participation in the case. I think the record would speak for itself—

Q Well—

A . . . as to when these various allegations were made.

Q They were first made about three years later?

A I think that practically all the allegations that were later pressed during the habeas corpus proceeding were originally raised sometime after the appeal to the Supreme Court of the United States.

Q And the testimony in regard to this note passing was by Margaret Gordon, Marian Ford and Joseph Darcy, is that correct?

A Yes, sir.

Q There was no other testimony, even though there were many people in the court room?

A I don't know how many others there were who testified to it or whether there were any others, but I think there is one thing that should be borne in mind; the District Court Judge—well two judges heard the case, Judge Murphy and Judge Watson—and they filed a unanimous opinion. They found against the petitioner factually on that particular point and practically every other factual issue that was raised.

Now for some reason, on the appeal to the Circuit Court of the United States and also to the United States Supreme Court, some of the judges there that were of the dissenting opinion apparently, so far as I can ascertain stated no reason for it, felt that those findings were incorrect. But they did not hear the witnesses under oath. And I say that Judge Murphy and Judge Watson were the judges who were in the position to judge and to find those facts.

Q And they did make findings of fact adverse to the defendant?

A To the petitioner.

Q Petitioner, I mean.

A Yes.

MR. KOHN: That's all.

BY REPRESENTATIVE LOPRESTI:

Q Did they decide that the facts did not exist or did they decide that the facts did not entitle the defendant to any additional consideration even though they were true?

A Well, you should have to read the opinion of Judge Murphy and Judge Watson.

My impression is that on practically all of these things they found factually that they did not exist. For instance, I believe that Judge Murphy's andw Judge Watson's opinions specifically found, as a matter of fact, that Judge Boyer was not in the court room at the time of the charge by Judge Keller.

Now that's the time that it has been alleged that this so-called note passing incident took place.

In the Appellate Courts, the dissenting judges, so far as I have been able to ascertain, at no time said that Judge Murphy's and Judge Watson's findings were incorrect on that point.

Q But did Judge Murphy find that no notes had been passed between the judge and the district attorney?

A You will have to read the opinion, sir, but it is my opinion that he specifically and expressly so found that no note was passed.

Now I may be mistaken about that, but I am sure that he expressly found that Judge Boyer was not even in the court room at the time of the trial. That's only my recollection of the record. It will speak for itself.

Q The reason I raised that question is because I cannot understand how the Supreme Court of the United States would have three judges who would question facts which lower court judges said did not even exist. I was just wondering about that.

Q Well, I can't tell you why the judges of the highest court in the land would reach the conclusions that they did, other than to say that they were not there at the

habeas corpus hearing; they did not hear the witnesses under oath and did not see what happened.

Q But getting back to this point, if the two judges found that the facts actually never did exist, and so found, why would the upper court pay any attention to them, if they did not actually exist?

A Yes, they must have disagreed with that finding of fact, although they did not specifically say that they did, and they did not indicate any reason for it—that is I don't think that they stated anywhere that the findings of fact of the lower court were not based upon proper evidence.

Q Can you give us the exact ages of each of the petitioners?

A I cannot, sir.

Q We have a lot of testimony about the age of eighteen, twenty-four, and so on.

MR. KOHN: May I say that we will look on the application and give you the date of their births? We will give it to you right now.

BY MR. KOHN:

Q When did this happen?

A December 22, 1947.

MR. EVANS: Darcy was born April 13, 1925.

ATTORNEY GENERAL McBRIDE: He was twenty-two.

MR. EVANS. Foster was born September 16, 1924.

ATTORNEY GENERAL McBRIDE: Twenty-three.

MR. EVANS: Zietz was born February 2, 1929. We haven't got Capona's here.

ATTORNEY GENERAL McBRIDE: He was seventeen and Zietz was seventeen, according to that.

REPRESENTATIVE LOPRESTI: What was Zietz's age?

ATTORNEY GENERAL McBRIDE: Zietz was born when, Mr. Evans?

MR EVANS: 1929, February 21.

ATTORNEY GENERAL McBRIDE: Over eighteen years.

CHAIRMAN TOMPKINS: He had been twenty; the other one was twenty-five and two of them were twenty years of age.

BY REPRESENTATIVE LOPRESTI:

Q Prior to this time, how long had Judge Boyer sat on the bench?

A I don't know the exact number of years. I think that he had been elected twice, I believe, and served for sometime before that. I am not sure of the exact date.

Q At least twenty years and possibly more?

A Again, I wouldn't like to say specifically. My recollection, I think, is that he probably had served more than twenty years, yes.

BY SENATOR YOSKO:

Q You were discussing some jurors' letters a short time ago. What else were you referring to?

A I am referring to letters I believe Miss Blatt testified to this morning which weighed very heavily in their consideration in commuting the sentence.

I am referring to letters that were apparently obtained, addressed "To whom it may concern," by somebody on behalf of the petitioner after the trial.

Q Were they letters from jurors?

A Yes sir.

Q And what did you say the courts decided in connection with letters like that?

A I say that all of the courts passed on that question, as I recall it, condemning that practice most bitterly.

Q They condemned the practice?

A Yes, and struck those from the record of the case of habeas corpus proceeding.

Q Have the courts ever decided that such letters, if they were not filed and if they were actually issued and signed by jurors, have the courts ever decided that they could not be considered by Board of Pardons?

A No sir, not so far as I know.

Q Then if they were in the file, do you think it was improper for the Board of Pardons to consider them?

A I think it would have been improper for the Board of Pardons to have considered them without investigating or having some investigation made, or of allowing an opportunity of an investigation to be made to ascertain the circumstances under which they were obtained. Now I am not saying that they were obtained in any way improperly because I do not know.

Q I was going to say do you have any evidence that they were obtained by any improper methods?

A Well, of course, now we get into the discussion as to what is improper method.

Q Well, you used the word "improper."

A I agree with you, but the courts themselves have stated that it is improper, as I understand it, at least in a judicial proceeding, to go around and ask the jurors what motivated their decisions.

Q Well, I am just a layman. Is there any difference between a judicial proceeding and a proceeding or hearing before a Board of Pardons?

A Well, I don't know whether there is or not, but you asked me specifically whether I knew of any cases that condemned some practice before the Board of Pardons, and I say I do not know. I say this case is precedent for it being improper at least in cases where it is on a habeas corpus proceeding.

Q And that would have something to do with the trial of the case, though?

A Well, it would have something to do with the habeas corpus proceeding which is dicerent from the trial of the case on the facts.

Q Well, the habeas corpus proceeding would be related in some way to the trial of the case, wouldn't it?

A Well, it depends again on what you mean by "related," sir. The habeas corpus proceeding was on the contetnion that the petitioner had been deprived of his constitutional rights in that the trial had been unfair.

Q And the proceeding before the Board of Pardons had nothing to do with the habeas corpus proceeding, did it?

A Nothing directly, but apparently, according—

Q So that the rule that you talked about that was stated by the court, so far as the use of the letters was concerned, or a consideration of the letters was concerned, that would not apply then to a Board of Pardons hearing as compared with a habeas corpus proceeding?

A I think the language of the court is sufficient as to condemn this practice for any sort of proceeding.

Q I am not talking about the practice. I am talking about whether or not the court actually ruled at any

time that such letters should not be considered by the Board of Pardons.

A I think I have previously stated, sir, that I know of no such case. That does not say that there isn't such a case.

SENATOR YOSKO: All right.

BY REPRESENTATIVE BELL:

Q How did these letters get to the Board of Pardons, do you know?

A I do not know, sir.

Q Were they introduced at the hearing, that is the Board of Pardons hearing, I mean?

A Again, I am not sure how they first came into the picture, but whether they were first originally sent to the Board of Pardons or whether they were attempted to be used in the habeas corpus proceeding, I am not sure. I do know that on—I say I know, but I am quite sure—that on one of the petitions for a writ of habeas corpus the original petition before the District Court, one of the allegations was concerning these jurors, and I believe that the letters were attached to that petition. Now whether that was the first incident in which they were used in this case, I do not know.

Q Now in your opinion, would the administration of justice generally be aided if legislation was passed that would make it illegal to seek letters such as these from jurors after they have gone to their homes and left the courthouse and made their decisions and returned their verdict?

A Well, that's a very difficult question to answer, sir. I know this, that it does and would harass jurors terrifically it it would be considered proper to ask them afterwards what motivated them to come to their decision. I think that it would be a very bad practice. I feel that it should be prescribed by the Legislature, but that is only my own personal opinion. It may not be a valid opinion.

Q And would the precedent of using letters such as these, as we find was done by the Board of Pardons, do you feel that those letters harass future jurors after they have returned to their homes?

A I certainly think there is an extreme danger of that, sir.

BY CHAIRMAN TOMPKINS:

Q These letters, I believe, were all dated in 1951?

A That may be correct, I am not sure.

CHAIRMAN TOMPKINS: Where are those letters?

MR. KOHN: Mr. McBride has them.

CHAIRMAN TOMPKINS: Do you have those letters that were here this afternoon, General, the letters of the jurors?

ATTORNEY GENERAL McBRIDE: I handed them up and I believe Miss Blatt left them on the table. I don't think I have them here.

DEPUTY ATTORNEY GENERAL WRIGHT: Here are some, General.

CHAIRMAN TOMPKINS: Suppose we set these up as an exhibit.

ATTORNEY GENERAL McBRIDE: Yes.

Packet of eleven letters from Juror—produced, marked for identification and received in evidence as Board of Pardons Exhibit No. 36. AJP 4/10/57.

CHAIRMAN TOMPKINS: These letters are dated March 26, 1951, March 24, 1951, March 24, 1951, March 27, 1951, March 24, 1951, March 26, 1951, March 24, 1951, March 24, 1951, March 26, 1951, March 29 1951 and March 24 195.

BY CHAIRMAN TOMPKINS:

Q Now when was this habeas corpus proceeding held?

A I don't know the date that it was originally filed.

MR. KOHN: April 2, 1951.

THE WITNESS: And when you say "this habeas corpus proceedings," of course, there were various habeas corpuses filed in this matter. I think the only proper way to get a review of the procedure up until the time of the habeas corpus proceeding, that is until the time of hearing before Judge Murphy, would be to refer to page 72 of the transcript of the record before Judge Murphy in the habeas corpus proceeding in which he reviews in detail all of the matters that took place up until that time, and I think, accurately so.

MR. KOHN: I think the record will show that. I think April 2, 1951 was the first the habeas corpus proceeding was brought.

BY CHAIRMAN TOMPKINS:

Q And apparently these letters were on file in the first Board of Pardons application and not on the second Board of Pardons application. Now, tell me, Mr. Van Artsdalen, had not the court held, and very severely in some of their opinions that I have read, that such practices are highly improper and that they, under no circumstances, would allow the verdict of a jury to be upset by the jurors themselves, or in other words they would not allow a juror to impeach their own verdict once it has been rendered?

A That has always been my view of the law, sir.

REPRESENTATIVE LOPRESTI: Who are we criticizing for these letters?

CHAIRMAN TOMPKINS: We don't know who got them or anything else, but the point I am making is this, the practice is highly improper; and if the courts ruled them out because they are improper, I don't believe it is a very proper thing to have them included as part of the Board of Pardons proceedings where they are using information that could be highly dangerous to your jury system.

ATTORNEY GENERAL McBRIDE: You mean because they were secured improperly?

CHAIRMAN TOMPKINS: I did not say that.

ATTORNEY GENERAL McBRIDE: You mean however they were secured, it is improper to secure them?

CHAIRMAN TOMPKINS: No, I say improperly used after they were secured. I make no allegations as to improperly securing them because we have no information on that.

REPRESENTATIVE LOPRESTI: Suppose, Mr. Chairman, in a proper case you can discover that a jury decided something unfairly on the basis of what was before them and you discover this information after the trial is over and you bring that before the court and

the Board of Pardons, don't you think it would be proper under those circumstances?

CHAIRMAN TOMPKINS: No, because of the fact that you are striking at the very foundation of your jury system.

REPRESENTATIVE LOPRESTI: Even though the jury used something outside the realm of the jury system?

CHAIRMAN TOMPKINS: I think it is up to the jury to decide from the facts of that kind which are available and then it is up to the court to decide a new trial.

ATTORNEY GENERAL McBRIDE: How could you discover it after the jury—

CHAIRMAN TOMPKINS: The jury is not allowed to disclose what they consider in arriving at a verdict. That is fundamental law.

REPRESENTATIVE BELL: Well, Mr. Lopresti, the reason I kept asking on this point is this: I don't know the composition of juries in every county, but in my own county they are mostly women because it is awfully hard to get men purors. Then, say you have a gambling case or a racketeer or something like that; and if you open the door to his friends to go calling on the jurors in their homes I think you are going to have an awfully hard time getting anybody.

REPRESENTATIVE LOPRESTI: I am not suggesting that that be done. However, I am supposing that under certain conditions you may have a jury deciding something on a fact which the judge says you do not consider, or you must not consider and the whole case may be decided on that fact.

If, in that case, it were properly brought before the court or before the Board of Pardons, I think it should be considered. I don't think it should be ruled out altogether.

THE WITNESS: Well, of course, these letters would not indicate anything of that sort at all.

REPRESENTATIVE LOPRESTI: Yes, but in certain cases it might be.

CHAIRMAN TOMPKINS: I think trying to find out what a jury decided after the verdict is rendered is on a par with wire tapping the jury during their deliberation.

MR. KOHN: I think we have gotten off the subject. The danger in this case is having the juror say after he has heard the testimony that he might have done something else if something else would have been presented to him. This is the gist, not the question of having done something wrong. It is a question of he might have done something else—

REPRESENTATIVE LOPRESTI: I say I am far afield, but I brought it up because it has been suggested here that we prohibit it altogether, and I don't know whether that would be proper.

MR. KOHN: May I read into the record, in answer to your question, this remark from Judge Murphy's opinion on page 1237-A of the United States Court of Appeals, Volume IV:

> "The district attorney and we find as a fact that Judge Boyer did not at any time during the Darcy trial assist, attempt to assist, make any suggestion to or in any other manner aid the Commonwealth in the prosecution of the case against David Darcy; that Judge Boyer did not pass any note or message of any kind to the district attorney in connection with the trial for the use of the district attorney or Judge Keller."

Now I am not inferring anything. I am merely answering the findings of the court, as you requested.

REPRESENTATIVE LOPRESTI: Well, that's what I want to know. May I see that?

MR. KOHN: Yes, surely.

ATTORNEY GENERAL McBRIDE: The Court of Appeals referred to that, too. Should I read that part which refers to it?

CHAIRMAN TOMPKINS: Well, the question came up as to whether or not there was any finding of fact on that specific point by the lower court.

ATTORNEY GENERAL McBRIDE: The Court of Appeals spoke of that finding of fact and I thought you might want to complete the record.

MR. KOHN: We agree that they differ from it. Mr. Lopresti's question is how did they differ.

CHAIRMAN TOMPKINS: Any further questions of this witness?

MR. KOHN: That's all.

CROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Van Artsdalen, the jurors' letters were first used in a petition for rehearing before the Board of Pardons that was filed on or about March 30, 1951, were they not?

A I don't know. The record would so state.

Q You don't know that that is not so?

A I would not deny it, no.

Q And if they were filed as early as March 30, 1951, that would be known to the District Attorney's Office and could have been fully investigated and met if there were any improper influences used, isn't that so?

A Well, I presume so, yes.

Q And that was before the Court of Appeals or anybody else held that the letters were improper, isn't that true?

A That's correct, but, of course, it was always the position of the District Attorney's Office—and at that time I was only an assistant—but it was our position that it was improper to do so. And we did not wish to add fuel to the fire and go around and further interrogate these jurors.

Q Now you felt that it was improper for someone to go and get the letters, didn't you, even though he did it by an honest method, it was improper in principal to interrogate a juror and get such a letter from him?

A I do so feel, yes.

Q Now even if that was improper, do you feel it is improper for the Board of Pardons to consider the letters?

A I feel that it would be improper for them to consider the letters without getting the facts directly from the jurors themselves.

Q Wouldn't it be all right for them to consider the letters subject to the district attorney or someone else presenting the opposing view or getting opposing letters from the self same jurors?

A No, I would not feel so, sir. That is my opinion.

Q You feel that since the solicitation of the evidence

itself was improper then the Board of Pardons or any other legal tribunal should not consider them?

A Yes, I think that's correct.

Q But you know, of course, that in Pennsylvania evidence no matter how unlawfully secured is admissible in the court proceedings? You take the same position every day in the week, don't you?

A I do not.

Q Do you mean to say that the Commonwealth as represented in Bucks County does not take the position that if there is an arrest without a warrant or a search and seizure without a warrant that the evidence is, nevertheless, admissible?

A We do take that position, yes sir.

Q So that the fact that the evidence is unlawfully obtained does not in any way affect its admissibility or consideration by any legal tribunal?

A Well—

Q That's an easy one.

A It may be easy for you, Mr. Attorney General, but it is not for me.

CHAIRMAN TOMPKINS: General, there is nothing here yet to say that these were improperly obtained.

ATTORNEY GENERAL McBRIDE: But even if they were improperly obtained, Mr. Van Artsdalen, does that make it improper for any legal tribunal to consider them?

THE WITNESS: Well now, when you say "any legal tribunal," that depends on what you mean. The court has held, as I understand it, that it is improper for a Federal Court to consider those on a habeas corpus proceeding.

BY ATTORNEY GENERAL McBRIDE:

Q Sure.

A All right.

Q But suppose a policeman or a private citizen breaks down the door of a private house and seizes evidence illegally, that's improper, isn't it?

A It sounds improper to me, sir.

Q Well, you would introduce it in evidence on behalf of the Commonwealth, and any judge in Pennsylvania would receive it, wouldn't he?

A I don't feel that I should answer a hypothetical question like that. It would depend on the case, but I certainly would take the position if it were necessary to put such evidence before the jury that it was proper to put it in, yes.

Q So that the evidence, no matter how unlawfully obtained, is admissible in the trial of the case. That's the common law rule in Pennsylvania.

A Well, you are more familiar with the law than I am.

Q Not more familiar with that fundamental high school problem, am I?

A I don't know, sir.

Q Now you have said that Judge Boyer tried cases after the Foster-Zietz trial in 1948, and that you have tried some before him. Will you name one or more of them?

A Yes sir. I cannot give you the name of it but I was admitted to the Bar in, I believe, September of 1948. A short time thereafter there was an indigent defendant and I was appointed to represent that indigent defendant. His name, I don't know. Judge Boyer tried the case.

Q When was that?

A I wouldn't know the exact date. I would say in the latter part of 1948.

Q My information is that he virtually retired after the Foster-Zietz trial in 1948. Would you say that that is not so?

A I would. That depends on what you mean by "virtually retired."

Q Do you know how many cases after the Foster-Zietz trial he heard?

MR. KOHN: Well, you tell us from whom you got the information, Mr. Bride. I think this is improper cross examination, Mr. Chairman.

ATTORNEY GENERAL McBRIDE: Well, I will stop any time you want me to.

MR. KOHN: I am not asking you to stop. You can stop any time you wish.

ATTORNEY GENERAL McBRIDE: Well, why not let me continue any time I want to?

MR. KOHN: I don't think it is proper to try to make a fool out of somebody.

ATTORNEY GENERAL McBRIDE: Mr. Van Artsdalen and I are old friends. Why don't you let him speak for himself.

THE WITNESS: I am perfectly willing to answer any questions.

CHAIRMAN TOMPKINS: Wouldn't the records in the Bucks County Court indicate how many trials Judge Boyer conducted after the Zietz-Foster trial?

MR. KOHN. That's right.

CHAIRMAN TOMPKINS: There would be very satisfactory evidence in the records of Bucks County as to how many cases Judge Boyer tried.

REPRESENTATIVE LOPRESTI: Mr. Chairman, this witness, in all fairness, should know whether or not the Judge tried any more cases.

MR. KOHN: Well, he said he did.

THE WITNESS: I said he did. I tried at least one before him.

MR. KOHN: But it is an unfair statement to say that somebody told him he "virtually retired" without telling us who or why or when.

BY ATTORNEY GENERAL McBRIDE:

Q Do you know how many cases he tried after the Foster-Zietz trial?

A No sir, I do not.

Q Would you say he tried a dozen?

A I won't make any estimate, sir. I don't know.

BY MR. KOHN:

Q Did Mr. McBride ask you to look at the record before you came up here as to how many cases were tried?

A Well of course, you would have to look in the Court of Common Pleas and the Orphans' Court and the Court of Quarter Sessions and the Court of Oyer and Terminer.

BY ATTORNEY GENERAL McBRIDE:

Q Well, if he had been very active, you would be able to tell us that.

A I would say he was an active judge.

Q You would say he was active after the Foster-Zietz trial?

A Yes sir, most certainly I would.

Now let me just say one thing else, however, that for

several months before he retired, before he officially retired, from the Bench he was not taking on as many duties. I think that is a fair statement.

BY CHAIRMAN TOMPKINS:

Q When did he retire?

A I don't know the exact date. The only information I can give you on that is, after he retired Mr. Biester was appointed judge, and I believe that was in August of 1949.

BY ATTORNEY GENERAL McBRIDE:

Q Now you said—or Mr. Kohn said it and you said, yes—that there was a difference in the former attorney general's position, Mr. Cohen. Now tell us just what that difference was.

A Well, you would have to read the opinion.

Q I am willing to do that.

A Do you have a copy of the opinion of the Board of Pardons? It is right there.

Well now, whatever the bases given in the opinion. Mr. Attorney General, it stated as follows:

> "It cannot therefore be said that the numerous appeals and petitions in this case which have consumed eight years were frivolous or without merit."

I say specifically that the attorney general's office has consistently taken the position that the petitioner's allegations were without merit.

Q Were without merit?

A Yes.

Q But this says "frivolous." You know that frivolous in the law is a word of art, isn't it?

A No, I beg to differ with you, sir.

Q You do?

A Now wait. I differ with your interpretation. It says "it cannot therefore be said that the numerous appeals were frivolous or without merit." I specifically call your attention to the words "or without merit."

Q Now when it says that, they were not "frivolous or without merit," doesn't that mean that no one could contend that with reason? Whatever the applicant or appellant contended, "frivolous or without merit" means that there was no merit whatever and no reason on their side?

A I would say that it would mean "without merit" that there was no merit in fact in their position.

Q Would you say now that there was no merit whatever to the appellant's contention before the United States Court of Appeals?

A Now which contentions are you referring to, specifically?

Q The contentions made by Mr. Margiotti in the United States Court of Appeals for the Third Circuit on appeal from Judge Murphy's decision. Would you say that that was either frivolous or without merit?

A I would say that factually their position was without merit, yes.

Q Now—

A If you mean do I think that it was without merit to take the appeal, certainly not.

Q No, but on its merits the appeal was not reasonable?

A Was not substantiated by the facts.

Q Despite the fact that three judges have solemnly dissented from the majority judgment of four to three?

A Yes sir.

Q Had there been a change of one vote, he would have won. Do you think that that is frivolous?

A I did not say that it was frivolous.

Q You rest on its being without merit?

A Yes.

Q Despite a four to three vote and you would maintain that position despite the fact that out of nine justices of the Supreme Court of the United States, three dissented and held that there was merit to it?

A Yes sir, I would, because I attended a good part of these trials, even though I wasn't a lawyer at that time.

Q Did you attend Darcy's trial?

A I attended every day of one of the trials.

Q Which one?

A Now whether that was the Foster-Zietz or the Darcy trial, I don't know.

Q It must have impressed you tremendously. Don't you remember which one it was?

A I do not, sir, althought I attend both trials, but the one trial I attended every day.

Q Did you attend any of Darcy's?

MR. KOHN: Just a minute.

A Yes sir.

MR. KOHN: Mr. Chairman—

THE WITNESS: As a spectator.

MR. KOHN: I don't see why we are running up a great deal of testimony here. I don't see that it is relevant to the issues involved. I think Mr. McBride has been very funny, and we have all realized that, but I think it is time to call a halt to the foolishness and get down to the meat of this thing.

Mr. Yosko seems to think that we ought to ask relevant questions. Now whether or not this witness attended trials and whether they impressed him or did not impress him before he became a member of the Bar, I think that is relevant to nothing. I think it is time we got on to the facts in this case rather than as to how funny Mr. McBride can be.

BY CHAIRMAN TOMPKINS:

Q Were you a member of the Bar at the time of these trials?

A No sir.

Q You attended them as a spectator and not as an attorney?

A Yes sir.

CHAIRMAN TOMPKINS: Well, I think that is out of line with your purpose here.

ATTORNEY GENERAL McBRIDE. You mean that it is out of line with our purpose here to have us solemnly inquire of a witness what his opinion was as to a state of facts at a time when he was not yet even a lawyer?

MR. KOHN: What difference does it make? He was a spectator like anybody else.

ATTORNEY GENERAL McBRIDE: It makes a difference as to whether his judgment was informed or not. Perhaps my humor has a basis.

MR. KOHN: He certainly cannot help it if the Board used the word "frivolous." They may have been very frivolous.

ATTORNEY GENERAL McBRIDE: Apparently you are

not so good humored tonight. Maybe it is not going so well for your side.

BY ATTORNEY GENERAL McBRIDE:

Q Now Mr. Van Artsdalen, you say you attempted to recite the facts. Nobody stopped you.
A Oh no, I did not say they did.
Q Nobody cut you short?
A Well, I think there was a statement that they had the record of those facts.
Q Who made that statement?
A I believe Miss Blatt did.
Q Miss Blatt did?
A Yes.
Q Was the statement such as to prevent you from continuing with what you wanted to say?
A No sir, it was not. I was given a full opportunity to say anything I wanted to say.

Q Now as to the legal position taken by Mr. Cohen, the former Attorney General, you indicated there was a change in that. Do you take the position now that the legal issue before the Court of Appeals, which I recall to you involved the question of whether or not there was a deprival of due process under the fourteenth amendment, and the situation before the Board of Pardons which was an appeal before a state tribunal for mercy, do you think that the legal position adopted by Mr. Cohen in the one as against the other was inconsistent, and if so, where?
A No, not the legal position.

Q All right. I thought you had said both as to the legal position and as to the factual position.
A Well, if I did, I am incorrect.

Q And you withdraw it as to the legal position?
A If I said that, yes.
ATTORNEY GENERAL McBRIDE: I think that's all.

BY CHAIRMAN TOMPKINS:

Q Going to the conflicting positions of Attorney General Cohen, in his argument before the Circuit and Supreme Court, did he not argue that there was no hysteria attendant upon the trial, that the counsel was eminently competent, that Judge Boyer did not have any influence upon the verdict in the Darcey case?
A That was the position of the Attorney General's Office, yes.
Q That was the position of the Attorney General's Office?
A Yes.
Q When we read in the reasons filed of the commutation that, "Darcy's counsel in petitioning for a new trial raised a number of questions going into the fairness of the trial, the conduct of the judge and the atmosphere of hysteria and prejudice surrounding the courtroom," when Attorney General Cohen signed his signature to that, how would you interpret that in the light of his position before the Circuit and Supreme Courts of the United States?
A Well, again, sir, it is a matter of interpretation. It seems to me that if it is not inconsistent, at least, it is on a different tack.

CHAIRMAN TOMPKINS: All right. I think that's all.

MARGARET C. GORDON, having been duly sworn, was examined and testified as follows on

DIRECT EXAMINATION

BY MR. KOHN:

Q Your name is Margaret C. Gordon?
A That is right.
Q You live at 4943 Frankford Avenue, Philadelphia,
A No I live at 5025 Frankford Avenue.
(Discussion off the record.)

BY MR. KOHN:

Q Are you related in any way to David Darcy?
A No sir.
Q Are you related to Marian R. Ford?
A No.
Q You have been a friend of hers for a long time?
A For a good many years.

Q I think you told Mr. Evans that you attended a Darcy trial, some parts of it?
A Yes, sir.
Q And you also testified in Scranton at the request of Miss Ford?

A I wouldn't say at the request of Miss Ford. I volunteered.
Q You volunteered?
A Yes.
Q Did she ask you what you should testify to? Did she tell you what you should say?
A No.
Q How did you volunteer? What testimony did you volunteer to give on her behalf if you did not know what she wanted?
A Well we discussed certain phases of the trial from time to time.
Q You and Miss Ford and Joe Darcy, who is sitting back there, discussed this one phase of the case, did you, before you went to Scranton?
A Yes, I think we did.

Q And I think you were the only three people who testified on that particular phase of the case, is that correct?
A I believe so, yes sir.
Q Do you know who financed Mr. Darcey's defense in the appeals, the numerous appeals?
A No.
Q Did Miss Ford ever tell you that she financed it?
A No sir.

Q Did you hear of the fact before today that she had drawn checks and made payment on behalf of Mr. Darcy's case?
A No sir.
Q I think the testimony at Scranton shows that you were the one who obtained counsel for Darcy, namely Mr. Margiotti, is that right?
A That is correct.
Q And Mr. Suto testified this morning that you had been a friend of long standing of the Margiotti family?
A That is right.
Q Did you have anything to do with obtaining the services of Mr. Witkin or Mr. Pannell?
A No sir.
Q Did you know Mr. Pannel before this? Did you know

him before the Darcy case was tried?

A Yes sir.

Q Were you connected in any way with Marian Ford's operations through the McClosky enterprises in Philadelphia?

A May I have that question again sir?

Q Were you connected in any way with Marian Ford in her connection with the McCloskey enterprises in Philadelphia?

A No sir.

Q Is there any reason that you would not tell Mr. Evans where you had worked in Harrisburg?

A No, there is no reason at all, sir.

Q Why did you refuse, then?

A I did not refuse. I did not think it had any bearing.

Q But at that time you did refuse to tell him where you worked in Harrisburg.

A No, he did not ask me where I worked. He asked me when.

Q And did you refuse that?

A I did not refuse. I said it had no bearing on the case.

Q Was there any reason why you wanted to withhold any information?

A No sir.

Q Did you work at the Capitol?

A Yes.

Q Where?

A In Personnel.

Q Under whom?

A Under John Breslin.

Q Under what Governor did you work at that time?

A Under Governor Earle.

Q And you had no interest in the Darcy case except being a friend of Miss Ford?

A That is right.

Q Do you know how long Miss Ford worked for Mr. McCloskey?

A I did not hear you.

Q Do you know how long Miss Ford worked for Mr. McCloskey?

A I could only approximate it.

Q Well give us an approximation?

A You mean how long she did?

Q Yes.

A I would just say approximately a few years. I don't recall how many years.

Q A few years?

A You mean as a Secretary?

Q Yes. Well how long did she work as a private secretary?

A I don't know. I would not know the exact number of years.

Q Well approximately?

A I would say approximately three or four years.

Q And is that the time he first became City Finance Chairman of the Democratic Party in Philadelphia?

A Yes it was around that time.

Q About 1924?

A Oh no, about 1934.

Q About 1934?

A Yes.

Q And then she worked for him for how many years?

A Are you speaking of Mr. McCloskey now, or the committee?

Q Mr. McCloskey.

A The committee as a whole?

Q No, Mr. McCloskey.

A Well we were all employed by the committee. I would say she was Secretary to Mr. McCloskey at the time.

Q Maybe I am confused.

A You are confusing me a little on the question.

Q All right, but what I am asking you now is, how long do you know that Marian Ford worked as personal Secretary for Mr. McCloskey? When did that start and end, approximately?

A Well so far as personal secretary is concerned, I don't know in what capacity you are speaking of, sir.

Q Well, any capacity.

A Well I would say approximately three or four years.

Q And that is all that you know that she was on his payroll?

A Well I would not know that she was on Mr. McCloskey's payroll.

Q Doesn't she have an office now in Mr. McCloskey's building right next to Mr. Pannell?

A She has an office in a suburban station building.

Q You mean as far as you know she was only employed by Mr. McCloskey for three or four years?

A I never knew her in Mr. McCloskey5s personal payroll. I was speaking of the Democratic City Payroll, not Mr. McCloskey's.

Q How long has she been on the Democratic city payroll?

A That is what I am speaking of when I say approximately three years, to the best of my knowledge.

Q How long did she work for Mr. McCloskey?

A I don't know. I have no knowledge of that.

Q How long have you known her?

A Miss Ford?

Q Yes.

A For approximately twenty-three or twenty-four years.

Q And you mean now that you knew that she worked for the City Democratic Committee—

SENATOR YOSKO: Wait a minute. Is Miss Ford here?

THE WITNESS: Yes.

SENATOR YOSKO: Well can't we get all this information from Miss Ford?

MR. KOHN: I want to ask her. Her credibility is at stake.

ATTORNEY GENERAL McBRIDE: How is her credibility at stake unless she says something that you want to contradict.

MR. KOHN: I don't know. I want to know what she knew about this matter.

BY MR. KOHN:

Q Well were you very close to Miss Ford?

A Yes.

Q And can't you tell us how long she worked for Mr. McCloskey or the McCloskey enterprises? Did she ever work for them as far as you know?

A As far as I know, Miss Ford had been in business for herself since her severance with the Democratic Party.

Q Can you answer my question ow. Do you know if Miss Ford ever worked for Mr. McCloskey or any of his enterprises?

A I do know that she handled some real estate for him, yes sir.

Q And when did that start and when did it cease?

A Well now I cannot recall the dates, sir, when that started.

Q Where was her office when that happened?

A Her office was on South Fifteenth.

Q And what was also the McCloskey building?

A No, it was the Robeson building.

Q And whose building was that?

A It was called the Robeson building.

Q And during that time was she handling real estate for Mr. McCloskey?

A Some of the time yes, she was.

Q When did she move into the Suburban Building?

A I am not sure.

Q Did you ever visit her in the Suburban Building?

A Yes.

Q Did you see her name plate, "Marian R. Ford"?

A Yes.

Q "McCloskey enterprise"?

A I did not see the enterprises but I saw M. R. Ford on the board.

Q Where on the board, at her office?

A No, as you go downstairs.

Q How long have you known Joseph Darcy?

A I have known him for a good many years. Well since, I would say, about twenty years.

Q Did you ever consult with Mr. Margiotti or Mr. Pannell before testifying in January?

A I think it was the second day of the trial that Mr. Margiotti spoke to me about testifying, and that was just in the courtroom, that he might call me.

Q Do you know anything about who directed the obtaining of letters in Bucks County from the jurors?

A No sir, I had nothing to do with that.

Q Weren't you consulted about that?

A No.

Q Do you know if Joseph Darcy had anything to do with it?

A That I could not answer.

MR. KOHN: That is all.

BY CHAIRMAN TOMPKINS:

Q What business are you in, Miss Gordon?

A Real estate and insurance broker.

Q Are you by yourself?

A Yes.

Q Were you ever connected with the Democratic Central Committee in Philadelphia?

A Yes sir.

Q When?

A In, I would say, 1934 until—I am not sure of the dates now.

Q Was it before or after the time you were in the Governor's office?

A That was prior.

Q Prior to that time?

A Yes.

Q And then you were in the Governor's office for how long?

A Approximately a year and a half or two years.

Q And have you been associated with the committee since that time?

A No sir.

Q Does Miss Ford also have an insurance agency?

A Yes she does, sir.

Q Did you help Miss Ford in her financing of—you heard the testimony of Mr. Suto this afternoon?

Yes.

Q Did you in anyway help Miss Ford with the financing of the payments to Mr. Margiotti which you heard about this afternoon?

A No sir.

Q Did you ever discuss this matter with any Member of the Board of Pardons, Miss Gordon?

A No sir.

Q Do you know of anybody else who discussed this matter with the Board of Pardons?

A No sir.

CHAIRMAN TOMPKINS: That is all.

ATTORNEY GENERAL McBRIDE: No questions.

BY MR. KOHN:

Q You would have no reason to know why Mr. McCloskey would talk to Miss Blatt on the Board of Pardons in 1956 about this case?

A No sir.

Q Miss Ford never discussed that with you?

A No sir. As a matter of fact I haven't seen much of Miss Ford for the last two years. I have recently had an eye operation.

MR. KOHN: Thank you very much for coming.

MR. KOHN: Miss Ford says she has a little cold and is hard of hearing.

MISS FORD: If you do not hear me, just let me know.

MARIAN R. FORD, having been duly sworn, was examined and testified as follows on

DIRECT EXAMINATION

BY MR. KOHN:

Q What is your full name?

A Marian R. Ford—F-o-r-d.

Q And where do you live?

A I live at 1810 Rittenhouse Street in Philadelphia.

SENATOR YOSKO: Can you talk a little bit louder, please?

THE WITNESS: All right, I am sorry.

REPRESENTATIVE BELL? The Daily News Reporter wants you to talk a little lounder.

THE WITNESS: I will have to for him.

CHAIRMAN TOMPKINS: Just make yourself comfortable.

THE WITNESS: I will try.

BY MR. KOHN:

Q How are you related to David Darcy?

A His late mother was my sister, whom I loved very dearly.

SENATOR YOSKO: Just a little louder, please.

THE WITNESS: I am sorry. Do you hear me now gentlemen?

The late mother of David Darcy was my sister, whom I dearly loved.

BY MR. KOHN:

Q And how long have you been connected with Mr. McCloskey?

A Now just what do you mean, "connected with Mr. McCloskey"?

Q How long have you been employed by him or connected in business with him?

A I was never employed by Mr. McCloskey, never have been an employee of Mr. McCloskey.

Q How were you connected with him in any business manner?

A He engaged my services to handle some real estate matters for him.

Q And weren't you also connected with him when he was the City Finance Chairman, I think it was 1934?

A Yes, I served as his secretary.

Q And when did you first get this business connection with him to handle the real estate?

A Well, I would say that it was in late 1949. He had had several brokers and then he finally came to me and asked me if I would handle certain details in connection with his real estate holdings. He engaged my services for his corporate interests and from that time on, I have handled certain of his corporate interests.

Q You have never been on his payroll?

A Never was I on his payroll.

Q Did you ever testify before the Grand Jury in 1938, Miss Ford?

A Yes, what do you mean by Grand Jury?

Q The Earle Administration, the Grand Jury investigation.

A Yes.

Q Did you testify in regard to some granite that had been delivered to the Capitol to the McCloskey Construction Company?

A I couldn't tell you now what I testified to, Mr. Kohn.

ATTORNEY GENERAL McBRIDE: I think I should like to draw the attention of the committee to the fact that grand jury testimony is not supposed to be divulged. Now I take no position on it one way or the other, but I understand that is a well recognized principle of law that testimony which is given before a grand jury is not to be divulged.

MR. KOHN: I thank you, Mr. District Attorney.

ATTORNEY GENERAL McBRIDE: Whether or not you are aware of it, I wanted to call it to the attention of the Chair who may view it differently from you.

BY MR. KOHN:

Q What I am asking you is at that time were you employed by Mr. McCloskey?

A I was never employed by Mr. McCloskey.

Q How did you get into that Grand Jury investigation?

A I do not know. (Laughter)

Q That is a very good answer. Now can you tell us, did you bring with you the checks and the receipts and amounts of money paid out in the Darcy case and to whom?

A Yes.

Q And will you tell us the dates?

A I have done a little better than that, Mr. Kohn. I have typed a summary of the expenditures which I have made from 1951 to 1956. May I hand you the original?

ATTORNEY GENERAL McBRIDE: May I see a copy of it?

THE WITNESS: Mr. Pannell made two copies.

BY MR. KOHN:

Q Now you have listed here expenditures I think to Mr. Margiotti and they coincide with what Mr. Suto testified to.

A That is true, Mr. Kohn, but I have correspondence here which shows the full and complete settlement of the account.

Q You mean of Mr. Margiotti?

A That is right.

Q May I see that?

A You may. Now this is after the death of Mr. Margiotti, but it covers the whole thing from the beginning to end and this first letter that I have before me is from Suto and Schuchert—Mr. Suto, you know, is the attorney for the estate—addressed to me.

"Dear Marian:

"We were all pleased to hear of the successful conclusion of the Darcy matter.

"As you probably know, I have been appointed Attorney for the Estate of Charles J. Margiotti, deceased, and, accordingly, I am now handling all his cases as well as the collection of all monies and fees due the Estate. I notice that Mr. Margiotti had been working on this case since 1951 and that the following summary shows the costs advanced, as well as fees collected, by him on this particular case:"

Then it is summarized, "Costs Advanced" in one column and "Fees" in another.

	"Costs Advanced	"Fees
"1951	$2,004.53	$1,500.00
"1952	378.20	5,000.00
"1953	195.01	1,000.00
"1954	546.31	2,000.00
"1955	288.42	2,500.00
"1956	113.06	2,500.00
"Totals	$3,525.53	$14,500.00

"His records indicate that he had under consideration a total fee of $25,000.00 provided he was successful in securing the commutation. I would appreciate your taking this matter under consideration and advising me.

"With kindest personal regards and very best wishes, I am

"Very truly yours,

"Suto & Schuchert"

Signed, "Alexander L. Suto

"Attorney for the Estate of Charles J. Margiotti, Deceased."

Now I replied to him under date of October 12, 1956, addressing it to Mr. Suto:

"Dear Al:

"I wish to acknowledge receipt of your letter of October 6, 1956, and to thank you for your good wishes. Naturally, after the terrific mental strain for so long, we are sincerely grateful. Our only regret is that neither

Charles, who took such a deep personal interest, nor David's Mother were with us to share the good tidings.

"While I can understand the reason for your letter, in view of your appointment as Attorney for the Estate of Charles J. Margiotti, it is obvious that the correspondence between Charles and myself, pertaining to the financial arrangements, has not been brought to your attention. For that reason, I should like to review the facts for you.

"After Charles agreed to take on the case, at Peg's urgent appeal, he asked me why I had not been in touch with him sooner. I explained that it was only because neither the family nor myself were in a financial position to pay the sort of fee which we knew he usually received in such cases. Charles knew of my limited finances, although I assured him I would do the best I could. This was satisfactory with him. You can imagine that, at the time, I certainly had no idea that the case would last as long as it did or that I would be called upon to lay out such large sums of money. On the other hand, had it not spread over such a long period, I could not have done as well as I did.

"Although I had asked Charles on many occasions what his fee would be and, in fact, made several visits to his office in Pittsburgh to try to get him to state a definite amount, I was not successful until my last visit to the office on November 9, 1955. I explained to Charles at the time that my health was not too good as I was just recovering from a thyroidectomy and, for my peace of mind, I just had to know where I stood, as I was quite concerned about future costs and my ability to meet them.

"At this meeting, it was agreed that I was to immediately remit my check in the amount of $2,500.00 to bring the Darcy account up to date, an additional $2,500.00 was to be paid after his argument before the U. S. Supreme Court, and I was to be responsible for the printing costs. These arrangments were all confirmed by letter. The first check in the amuont of $2,500.00 was mailed to Charles on November 10, 1955, the day after my return from Pittsburgh. The second check in the amout of $2,-500.00 was mailed on May 4, 1956. At this meeting, it was further understood that, should the U. S. Supreme Court act favorably and grant a new trail, we would, as Charles put it, 'cross that bridge when we come to it'.

"On July 9, 1956, Charles wrote me and enclosed a statement of expenses in the Darcy case for the period from March 31, 1956 to July 6, 1956,"—rather lengthy—"in the amount of $643.50, which he felt should be borne by me. He added a postscript to his letter which read: 'I am not going to make any charge for the preparation of the petition for commutation of sentence to be filed before the Pardon Board of Pennsylvania. Letter will follow.' My check in the amount of $643.50, to cover the expenses referred to, was forwarded to Charles on July 13, 1956.

"The letter referred to in the postcript, bearing the same date, read as follows:

"'Dear Marian:

"'I reply to your letter of July 5th in which you ask me what my fee will be for the preparation of the Petition for Commutation before the Board of Pardons. I have given this matter much consideration, and in view of the fact that I have submitted you a bill for some expenses in the Supreme Court matter, I conscientiously believe that I should make no charge for the preparation of the Petition and will not do so. The Petition is now being typed and will be in your hands in a few days. When it is determined who is to appear before the Pardon Board in behalf of Darcy I will then discuss further with you what fees, if any, will be charged. I trust all this is satisfactory . . .'.

"As you are probably not aware, I was personally responsible for many of the additional costs. To cite just a few, the printing bills which I paid were in the amount of $7,450.00. There was the cost of engaging an investigating agency, witnesses' fees, cost of subpoenaing witnesses, voluminous photostats, other attorneys' fees, and so on. Offhand, I would say that $15,000.00 would be a very conservative estimate of additional expenses borne by me.

"At the conclusion of the hearing in Scranton, Charles presented me with the hotel bills rendered by the Hotel, Casey covering his, his staff's stay during the period of the hearing and included the bills for other clients, Buratz and Knohl of Long Beach, N. Y., who had come to Scranton to discuss with Charles other legal matters. My personal check in the amount of $83.50, in payment of these bills, was tendered to the Hotel Casey.

"I am sure that, after reviewing the facts in the case, which are also borne out by the correspondence, you will concur that I have fulfilled my financial obligations.

"May I wish you every success, and my fondest regards to Juliette, the family and you. Please remember me to Mr. Goldstein.

"Very truly yours,

"Marian R. Ford"

Now he responded, under date of November 19, 1956:

"Dear Marian:

"I have reviewed your letter of October 12, 1956, in connection with the above-captioned matter. I have had an opportunity to discuss the matter with the Executrix of the Estate, Mrs Denise Z. Margiotti.

"It is the considered opinion of both Mrs. Margiotti and myself that the Darcy Case should be considered closed and that the fee and expenses as paid constitute full payment for the services rendered by the late Charles J. Margiotti. We trust that these arrangements will be completely satisfactory to you.

"Our kindest personal regards and very best wishes to you.

"Very truly yours,

"Suto & Schuchert"

Signed "Alexander L. Suto"

Q May I have the checks, please? I want to question you about these letters first.

Do you have the envelopes in which these letters came?

A No sir.

Q Do you have the envelop for either letter?

A No sir.

Q Mr. Suto wrote you a very short letter on October 6,

1956. What was the occasion for you writing him a two page letter, going into all this detail? He didn't inquire about any of the details.

A So he would be familiar with the facts of the case from beginning to end. That is all.

Q He asked you to remit a certain amount of money, did he not?

A If you had read the correspondence, you would not have asked that.

Q Read the correspondence to who?

A To Mr. Margiotti.

Q Is there any correspondence here in addition to that?

A No, because this covers it so comprehensively.

Q You were asked to bring in all letters in regard to the Darcy case. Did Margiotti ever write to you?

A Yes.

Q Do you have those letters?

A No sir, after his death, what was the purpose of keeping his correspondence? .

Q Did you keep it in with this file in order that you could refer back to it?

A It was not necessary, I covered everything in one letter.

Q You destroyed the other correspondence with Mr. Margiotti?

A Yes sir, the only correspondence that I had was really where he would enclose me a copy of a petition or where I would confirm having been in his office and that the arrangements were thus and so.

Q You never had any long personal letters with him, like you did with Mr. Suto here on October 12, 1956?

A But, Mr. Kohn, I thought I had to explain to Mr. Suto from the very beginning.

Q You were not a personal friend of Margiotti's, were you?

A Yes, I suppose. What do you mean by "personal friend"?

Q I mean, you were not the one who recommended him or hired him originally?

A No, I did not.

Q Margaret Gordon testified that she was the one who hired him.

A Not hired.

Q Recommended and called him for you?

A Yes sir.

Q So that you had every reason to keep a file on your correspondence with Mr. Margiotti and know what the facts were as the case progressed?

A Up until the time of his death.

Q You have none of it with you?

A No.

Q And none are in the files in Philadelphia?

A No.

Q In fact, you have nothing except this correspondence at the present time?

A Yes.

Q And all that is set forth herein you felt was in explanation of the letter Mr. Suto sent you?

A Yes, sir.

Q Did I understand you to say, Miss Ford, this correspondence you had with Mr. Margiotti you disposed of or destroyed?

A After his death I did and kept only this—kept only the correspondence that would have to do with the moneys owed or acknowledging payment in full or something of that sort or my checks.

Q When did you destroy that?

A I would say shortly after I received the first letter, after I had written my reply to Mr. Suto which gave all the facts.

Q Wouldn't your letter to Mr. Margotti and his letter to you form the background of the basis of your understanding with Mr. Margiotti?

A Not after they gave me an acknowledgment that the account was considered paid in full.

Q That is when you decided to destroy them?

A Yes, sir.

Q Now this statement that you gave me calls for a total expenditure of $26,424.36.

A Yes, sir.

Q This payment to Joseph Keenan, Esquire, of $1,500, on May 1, 1951, had no connection with Mr. Margiotti, did it?

A No.

Q And the I. F. Huntzinger payment of $7,449.80, what did that represent?

A Printing.

Q Printing of the paper books?

A Yes.

Q Did you pay this direct?

A Yes, to I. F. Huntzinger.

Q Do you have checks for that?

A I have.

Q And did E. J. Charters Associates' payment of $830.54, what did that represent?

A That was an investigating agency which Mr. Margiotti had directed me to engage.

Q And the other expenses of $1,500.52 were expenses for hotel bills?

A That is right.

Q Now where are your checks you paid to Mr. Witkin?

A I never paid Mr. Witkin.

Q How did he become engaged in the matter, for free?

A In the beginning you mean?

Q Yes.

A I wouldn't know, sir, because you will notice my dates here are 1951 to 1956. I did not become actively engaged until the father's health broke down.

Q You made your first payment in 1951?

A That is right.

Q Was Mr. Witkin in the case before that?

A Mr. Darcy had engaged him then. I had nothing to do—

Q Was he in the case as far as you know?

A Yes.

Q And what did you pay Mr. Pannell?

A I haven't paid Mr. Pannell anything. Now I know there have been costs in the case. Mr. Pannell—I mean I have asked him time and time again what I owed him.

Q Just tell me what the facts are.

A Nothing.

Q You didn't pay Mr. Pannell anything?

A No.

Q No expenses? Mr. Pannell is Mr. McCloskey's private attorney, is he?

A I never knew him to be a private attorney.

Q He represents Mr. McCloskey corporately?

A Yes, and I would say personal if he had any personal.

Q That is he is his corporate and his personal attorney. Does he represent Mr. McCloskey both personally and—

A I couldn't answer that. I just know him as a corporation attorney.

Q And Mr. Pannell has also appeared on behalf of Mr. Darcy?

A Yes. sir.

Q Now do you know when he entered the picture in appearing for Mr. Darcy of record?

A Yes, I do.

Q Will you please tell us?

A I will be happy to. April 1, 19—

ATTORNEY GENERAL McBRIDE: Can you speak toward the committee, Miss Ford?

THE WITNESS: I am awfully sorry.

CHAIRMAN TOMPKINS: I don't know whether these gentlemen can hear you.

ATTORNEY GENERAL McBRIDE: I would like to hear, too. I am very, very much interested.

THE WITNESS: April 1, 1951 was that—

SENATOR YOSKO: A little louder, please.

THE WITNESS: April 1, 1951 was that awful, awful ordeal that we went through.

BY MR. KOHN:

Q That was at Scranton you are referring to?

A Yes.

Q And did you engage the services of Mr. Pannell?

A I never engaged the services of Mr. Pannell.

Q Did Mr. Darcy, do you know if he ever engaged the services of Mr. Pannell?

A Mr. Pannell, he came into the office the following day and he said to me—

Q Will you answer my question, please?

A Pardon me, sir.

Q I don't mean to be discourteous, but I would like to have you answer my questions.

A I will try.

Q Do you know who did engage the services of Mr. Pannell?

A No one did or I would have known about it.

Q What do you know about it as to how he happened to get into this case?

A Now this is the story. April 2, Mr. Pannell stopped into my office and he told me that Mr. Margiotti had telephoned him and had asked him to prepare a petition and he said to me—

Q May I interrupt you? Is this 1951?

A This is 1951, April. He asked me if I would stand by that night because he wanted me to type this petition, and I said I would be very happy to. So after five o'clock you know, Mr. Pannell started drafting the opinion or drafting the petition, whatever it was.

Q Excuse me, just keep your voice up.

ATTORNEY GENERAL McBRIDE: Take it easy and keep your voice up. That is all right; I understand.

THE WITNESS: So, Mr. Pannell drafted the petition and I typed it. He left my office about three or three-thirty in the morning, and I left the office about six-thirty or seven and that was Mr. Pannell's introduction to the case in so far as I know. From then on—

BY MR. KOHN:

Q Do you know who got Mr. Witkin interested in the case?

A No, I don't, only I have certain correspondence that he had addressed to Mr. Darcy back in 1949.

Q Do you have the correspondence here?

A Yes sir.

Q You saved that?

A Yes, I did. That was not my correspondence.

Q What was Mr. Pannell doing there at the office? I mean, was he working for Mr. McCloskey at that time?

A He stopped at my office.

Q And he stated Margiotti called him and wanted him—

A That is what he told me.

Q To enter as counsel?

A Yes.

Q You heard the testimony that Mr. Pannel was never paid anything by Mr. Margiotti, given by Mr. Suto here today?

A Yes.

Q Do you know who has paid Mr. Pannell?

A Mr. Pannell hasn't been paid anything. I know he has expenses.

Q Do you know if anybody promised to pay him anything?

A No, Mr. Pannell just got into this thing. We have been friends, Mr. Kohn, for years and I just bless the day when I first met him.

Q I am trying to find out facts. He has never been paid?

A No.

Q You don't know if Mr. McCloskey paid him or not?

A Why would Mr. McCloskey pay him?

Q I am asking you whether you know whether he has or has not?

A Certainly not.

Q He has not?

A I know of no reason why.

Q Do you know that Mr. McCloskey has not paid him for services in the Darcy case? Do you know that?

A I wouldn't know that, Mr. Kohn.

Q You don't know that but you know, as far as you know, he hasn't paid him anything, but you wouldn't know whether he might have.

A I know that he hasn't.

Q Did you talk to Mr. McCloskey about it?

A I wouldn't think of talking to Mr. McCloskey about legal fees. I would have no reason to ask him such a question.

Q Did you ask Mr. McCloskey why he stopped into the office of Genevieve Blatt to talk about the case?

A No sir, I did not.

Q Did he ever tell you about that?

A No sir.

Q In fact, you and Mr. McCloskey never discussed the Darcy matter, did you?

A No, I couldn't count the times we have discussed it, Mr. Kohn.

Q Mr. McCloskey was vitally interested in doing whatever he could for Darcy?

A Mr. McCloskey was always interested in doing anything he could to help anyone, Mr. Kohn, and I don't know—

Q Am I to infer by that he wasn't interested in Darcy?

A Well, I should think that because I had one time been his secretary that he would be interested in the case.

Q Now understand, I don't see anything wrong with it.

ATTORNEY GENERAL McBRIDE: Then let's all go home.

MR. KOHN: There is nothing wrong if he was interested.

BY MR. KOHN:

Q But Mr. McCloskey was interested and you talked to him many times about the Darcy case?

A I talked to him about it any time he would lend a sympathetic ear.

Q And he said he would do anything he could?

A No.

Q He never said that he would do anything he could for you?

A No sir.

Q Never one time?

A No sir.

Q Whenever you discussed things and might make a suggestion or something like that, did you do this or did the attorney do this?

A No.

Q He never one time made an attempt to help you at anytime?

A No sir.

A No sir.

Q And, therefore, you wouldn't know why he did make a visit?

A No, I really wouldn't, Mr. Kohn.

Q Did you and Mr. Pannell and Mr. McCloskey ever discuss this case together, the three of you?

A I would say offhand, we did.

Q I think I did ask you whether or not Mr. Witkin was paid. Do you know whether Mr. McCloskey paid him anything?

A No, I wouldn't know if Mr. McCloskey would pay him or if he ever engaged his services—in another matter maybe, but not in the Darcy case.

Q In other matters he might have?

A In any other matters, but I can't answer for that.

Q But Mr. Witkin had done legal work for Mr. McCloskey on other matters?

A I wouldn't know. Mr. Witkin—I know that I asked Mr. Witkin if he would let me have his bill for the services he rendered or, at least, for expenses and I couldn't even get a bill from him.

Q Mr. Witkin never rendered a bill to you?

A No.

Q Never asked you for any fees?

A He never has.

Q And I don't recall now who you said got Witkin into this?

A Mr. Darcy, from the correspondence.

Q. And that was Mr. Joseph Darcy?

A The father.

Q That was the father. That isn't the boy that is here.

A No.

Q Did the father ever make any payment to Mr. Witkin?

A Not that I know of, sir.

Q I thought here that Witkin got into it in 1949. Do you know whether Mr. Joseph Darcy, the father, had not retained Mr. McBride and consulted with him about the case?

A Pardon me?

Q Do you know whether Mr. Joseph Darcy, the father of David Darcy, had consulted Mr. McBride and hired him to represent Darcy?

A I believe he had.

Q Did you have anything to do with that?

A No sir.

Q At the time that you and Miss Gordon arranged to talk to Mr. Margiotti, what did you determine Mr. McBride's status was at that time? Had he been discharged as counsel or was he still counsel in the case?

A Well, Mr. Kohn, Miss Gordon and I did not do this together. We were at the Darcy house on another very sad occasion. It was the day that the Pardons Board rendered its decision against the commutation to life. Now I would say that was some time in, oh, probably around May 1950 and the family—we were all in the utmost despair at the time and I have since learned that Miss Gordon, who was with us, left the house and went to the corner drugstore and put through a call to the Margiotti residence in Pittsburgh and talked to Mr. Margiotti for the first time. She told him about this case. He had no knowledge and at that time he assured her that if there was anything at all he could do he would get into it and that there would be no fee.

Q Now would you mind answering my question?

A Well, I am sorry. Would you repeat your question?

Q I asked you what Mr. McBride's status was at the time that you made this contact?

A I can't answer that, sir.

Q In other words, Margaret Gordon, on her own, went out to the corner drugstore and called Margiotti and engaged him on behalf of Darcy?

A Yes.

Q Who was there at the time this took place?

A You mean at the home?

Q Yes.

A The immediate family members and Miss Gordon and myself, and I don't know whether there was anyone else.

Q Did you know Miss Gordon was going out to make this call?

A I did not.

Q When she came back, did she advise you that she had made the call?

A She advised the family.

Q And what was the conversation at that time in regard to the position of Mr. McBride as counsel in the case?

ATTORNEY GENERAL McBRIDE: Just a minute I wasn't in it at that time. This is after the Pardons Board had declined David Darcy's application. I wasn't even in its when it was presented.

THE WITNESS: In around May 1950.

BY MR. KOHN:

Q When was it?

A I believe it was around May of 1950. It was after Mr. Witkin had first appeared before the Pardons Board, and this was the day that they had announced—

Q Mr. Witkin was in the case?

A That is right.

Q And what was the discussion in regard to Witkin's position?

A Mr. Kohn, at such a time—I hope you never know such sorrow—you don't discuss such things like that.

Q You mean Margiotti took the case knowing that Witkin was in it, did he?

A Well, as the result of the telephone call, he said he would be in Philadelphia within the next week or ten days and then discuss it at that time. I don't imagine he went into too much detail other than—

Q Did you go to see Mr. Margiotti when he came to town?

A Yes sir.

Q And at that time did you discuss Mr. Witkin's employment as counsel? He was in the case free of charge with Mr. Margiotti?

A No, Mr. Kohn.

Q And nobody told Mr. Margiotti that Witkin was in it?

A No, I didn't.

Q Well who else was with you?

A Miss Gordon.

Q And who else?

A That is all, just the two of us.

Q And nobody told Margiotti that there was counsel of record already in the matter at that time?

A I guess not, Mr. Kohn. I didn't.

Q Isn't it a fact that you and Mr. Pannell discussed all this testimony before you took the stand?

A We might have refreshed ourselves.

Q You went all over these checks?

A No. Went all over these checks? Oh, he has been holding them for me.

Q You went all over this testimony, did you not?

A All over this testimony?

Q Yes.

A No.

Q How much do you earn a year approximately?

A I am on a commission basis.

Q Well let's say between the years 1951 and 1956, how much did you earn?

A Well between—

Q That is in your income tax return reports?

A I would say during the years 1951 to 1956 I had a net income annually of somewhere between $11,000 and $12,000.

Q After expenses or gross?

A After taxes.

Q That is net.

A Yes, I say average net income.

Q And these checks were paid out of what bank?

A Well this is a little difficult. The First National Bank was the bank, and then they merged with the Pennsylvania.

ATTORNEY GENERAL McBRIDE: Have you got those letters that I can look at while you are examining this witness?

MR. KOHN: Yes.

BY MR. KOHN:

Q Will you just give us the dates and the numbers and the amounts and the banks upon which they were drawn. Now just take your time. Will you do that please?

A You want me to write that down?

Q No just give us the checks verbally by reading them off. Give us the dates and the amounts and the bank upon which it was drawn and to whom it was payable, if you will please.

A All right. The first Check is No. 1886. It is dated May 1, 1951 payable to the order of Charles J. Margiotti in the amount of $1500 drawn on The First National Bank of Philadelphia and signed by M. R. Ford.

The second check was dated December 16, 1952. It is No. 2810, payable to the order of Charles J. Margiotti in the amount of $5000 drawn on the First National Bank of Philadelphia and signed M. R. Ford.

The third check was No. 3217 dated December 21, 1953, payable to the order of Charles J. Margiotti in the amount of $1000 drawn on the First National Bank of Philadelphia and signed M. R. Ford.

The next check is dated March 25, 1954, No. 3337, drawn to the order of Charles J. Margiotti in the amount of $1000 and drawn on the First National Bank of Philadelphia countersigned M. R. Ford.

The next check is No. 3641, dated December 29, 1954, payable to the order of Charles J. Margiotti in the amount of $1000 drawn on the First National Bank of Philadelphia and signed by M. R. Ford.

The next check is dated November 10, 1955, X-354, payable to the order of Charles J. Margiotti in the amount of $2500 and signed M. R. Ford and drawn on the First National Bank of Philadelphia.

Now here, this is after the merger of the two banks. The Pennsylvania merged with the First National, and they gave you any check book.

Q That would be all right.

A The next check is No. 564 dated May 2, 1956. It is now, I guess, the First Pennsylvania Banking and Trust Company, drawn to the order of Charles J. Margiotti in the amount of $2500 and signed M. R. Ford.

The next check is dated July 13, 1956, No. 648 and it is payable to the order of Charles J. Margiotti in the amount of $643.50 and that is in payment of his invoice dated July 9, 1956, signed M. R. Ford and drawn on the First Pennsylvania Banking and Trust Company. That is after the merger.

Q And these all came out of your personal account?

A Yes.

Q Or business?

A Business and personal.

Q You used the checking account for both business and private funds, is that right?

A That is right.

Q During this time did you have to borrow any money to finance this.

A No I did not, Mr. Kohn. Now I did have to make great personal sacrifices. I haven't had a vacation in ten years, and a few things like that which I did willingly.

MR. KOHN: That is all.

BY CHAIRMAN TOMPKINS:

Q Miss Ford, I gathered the impression from your reading of the communications with Mr. Suto that the last application for commutation which was filed was

prepared by the late Charles J. Margiotti, is that right?

A He drew the petition and sent it on to me, yes. Now whether that was in its final form or not, I don't recall.

Q And had or was Mr. Margiotti intending to represent Mr. Darcy before the Board of Pardons, or had he made arrangements with Mr. Witkin for that purpose.

A No arrangements had been made. You see Mr. Margiotti's health was in a very precarious state at the time and we were hoping that he would, you know, be in good health and would be able to, but yet the last time I talked with him in Philadelphia he was about to make arrangements to go into the Wills Eye Hospital, and his health was very bad. It was just one of those things that you couldn't say.

Q Well you know how Mr. Witkin got into the representation of the case before the Pardons Board?

A After the death of Mr. Margiotti.

Q That was through Mr. Margiotti's request?

A No, Mr. Margiotti had not requested it. He thought he would argue it before the Pardons Board, but then in the meantime he passed away. It was after his death that it was determined that Mr. Witkin would argue it before the Board of Pardons.

Q And who made that determination?

A I did.

Q You contacted Mr. Witkin?

A Through Mr. Pannell, I discussed it with Mr. Pannell and I asked Mr. Pannell would he ask Mr. Witkin if he would argue it before the Board of Pardons because he had been before the Board of Pardons previously.

Q Now, Miss Ford, just how did Mr. McCloskey's name get into this case? Would you know?

A Well, that's the $64,000 question, Mr. Tompkins. I can't answer it.

Q You do some real estate brokerage business for Mr. McCloskey, as I understand it?

A Yes.

Q Are you in the insurance business also?

A Yes sir.

Q Do you carry any insurance coverage on any of Mr. McCloskey's enterprise.

A No, sir but I wish I did.

REDIRECT EXAMINATION

BY MR. KOHN:

Q I have one question: these checks are all endorsed by Mr. Margiotti personally, are they not? This is his signature on the back of all these checks?

A Well they have all been deposited in the account.

Q But that is his signature?

A I think so.

Q Well I know it is.

A Well, do you. All right.

Q There are a few of them that are deposited directly.

A This is not, for instance.

Q No, that is not, and this is not either.

MR. KOHN: Mr. Chairman, Miss Ford will furnish us with photostats of these to put in the record Miss Ford will furnish us with photostats to put into the record rather than keeping her checks at this time. They contain the endorsement on the reverse side.

CHAIRMAN TOMPKINS: That's satisfactory.

BY CHAIRMAN TOMPKINS:

Q Miss Ford, did you ever contact any Member of the Board of Pardons in connection with this matter?

A No sir.

Q Do you know of anybody who ever did?

A No sir.

Q Do you carry any state insurance.

A No sir, and again—

Q You wish you did?

A Yes.

ATTORNEY GENERAL McBRIDE: I have a few questions.

CROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Witkin's letter to Governor Duff dated November 14, 1949, indicates that he was retained on Thursday, November 10, 1949. Do you accept that as being a correct statement of fact?

A Well, yes.

Q That is, your own recollection is not in disaccord with that, is it?

A No.

Q It indicates also that the last legal step in this case took place on October 26, 1949, being a decision of the Supreme Court, the United States Supreme Court, refusing to hear an appeal from the decision of the Supreme Court of Pennsylvania.

Now Mr. Witkin got in then and handled the first application to the Board of Pardons?

A Yes sir.

Q I was not in any way connected directly or indirectly with the Darcy case after the attempt to get certiorari from the Supreme Court of the United States, is that correct?

A That I believe is corerct, Mr. McBride.

Q Now I think the correspondence bears Mr. Witkin's relationship to the case and to his charging the fee, and I would like to have this marked for the record so that it can be introduced.

CHAIRMAN TOMPKINS: Very well.

Series of five letters attached—produced, marked for identification and received in evidenec Board of Pardons Exhibit No. 37 AJP 4-10-57

BY MR. KOHN:

Q Now these deposit which were made were made over a course of years through your business income, is that correct?

A Through my working years.

Q There was no extraordinarily large deposit at any one time during these years, was there?

A No. But there was an extraordinarily large period of years.

Q I understand. The question was, was there any extraordinarily large deposit?

A No. just routine business.

Q It would run average during these years off and on, once a little higher and then a little lower?

A Yes. We had settlements, you know, which would mean you might have a few good deposits.

Q How many people do you have in your office?

A I have three girls.

Q Do you have any real estate salesmen?

A Not at the moment. I have just finished a development.

Q Do you engage in real estate sales?

A Yes I do.

Q And is your business restricted to the McCloskey interests, or do you represent other interests also?

A That was a very minor part of my income.

Q You represent many other interest?

A I will say this, that there was a residential construction program started at the end of 1954 in which he has a financal interest.

Q Yes.

A In 1955 and 1956, you know. It takes long to build houses and then we started to collect commissions and he did have a financial interest in that corporation, and I had handled the corporation.

Q Are you an incorporator or an individual?

A As an individual operator, and on my door I have "M. R. Ford, Real Estate and Insurance" and "Notary Public."

BY ATTORNEY GENERAL McBRIDE:

Q Miss Ford did you ever receive one penny of this money from Mr. McCloskey or anyone else directly or indirectly except in the ordinary source of business earnings?

A I have never received one penny of the money that went into these bills from anybody but what I had earned and had been able to set aside and pay, and I had more that I would have paid willingly and I would have made any sacrifice that I was called upon to do.

ATTORNEY GENERAL McBRIDE: I believe it. That is all.

BY CHAIRMAN TOMPKINS:

Q Miss Ford, I believe you testified that at least several and maybe numerous occasions Mr. Closkey did discuss the Darcy case with you?

A Yes.

Q During any of these discussions did he ever advise you as to the steps to take or anybody to contact or any program that you should pursue in connection with it?

A No, just general conversation.

Q General conversation?

A Yes.

BY MR. KOHN:

Q May I ask you whether or not you ever appeared before the Board of Pardons during the time of the hearings on any of these applications?

A No sir.

BY CHAIRMAN TOMPKINS:

Q Would you care to tell us just what the nature of your discussions were with Mr. McCloskey concerning the Darcy case.

A The nature over the years well I remeber the first time I told him, you know, about the gruesome details and how shocked we all were and what a tragedy it was.

BY ATTORNEY GENERAL McBRIDE:

Q Will you please keep your voice up.

A I said I remember our first discussion was telling him about this terrible tragedy, you know.

BY CHAIRMAN TOMPKINS:

Q Do you know how long it was after this offense it was that you first discussed it with him? When was it that you first discussed it with him with respect to the details?

A Oh, I don't remember. I would say shortly after it appeared in the newspaper because I remember how I first got word. My nephew telephoned me at the office.

Q Well it was shortly after the affair took place in—

A After it appeared in the newspapers.

Q How many times during the course of years since then would you say you did discuss or have discussions with Mr. McCloskey about this matter?

A Well Mr. McCloskey is a hard man to catch up with to start with, and any time I would bend his ear and he would listen to me—and I was thinking of the case—I would probably say something to him, Mr. Tompkins, to be truthful. And if you would listen to me, I would have told you.

Q I believe you would, Miss Ford. And I wouldn't blame you.

Well, then, it was on quite numerous occasions that the discussion took place with him?

A Over the years, yes.

Q And was the nature of the discussion always the same or did it vary as you discussed it at different times?

A Well, thinking back to the best of my recollection, it was probably the progress of the steps we were taking or what we were going to do that we discussed, you know. I think that it would be along those lines.

I remember—I say I remember but I don't know what I remember. I am sorry. But you know, the general progress of the case.

Any time that I saw him and he had a minute to listen, I would probably say, well, we are doing this or we are doing that or Mr. Margiotti is preparing this petition. You know, it was things along those lines.

Q You kept him informed of the progress of the case?

A I tried.

Q And did Mr. McCloskey, during any of these discussions, ever offer you any aid in the matter?

A Financially?

Q Financially or aid to contact anybody to help you out in the matter?

A Well, Mr. Tompkins, I wouldn't accept financial aid from anybody. If I had needed it to further this case, I would have gone out and borrowed it.

Q Well, didn't Mr. McCloskey ever offer it to you?

A No sir. He knows me.

Q I think you said you worked as his private secretary at one time?

A Yes.

Q When was that?

A Well, that was at the end of 1933, and I resigned as his secretary around the 15th of June, 1938.

Q And you haven't been in his direct employment since that time?

A I was never in his direct employment.

Q You were a secretary while he was the Finance Chairman of the Democratic Committee?

A Yes, but he didn't pay my salary.

Q The Democratic Committee paid your salary, is that right?

A That's right.
Q But you acted as private secretary in that capacity?
A Yes sir.

BY MR. KOHN:

Q During the period of September 20 to September 29, did you have any discussions with Mr. McCloskey with regard to this case in 1956?
A When?
Q Between September 20 and 29 or thereabouts, do you recall having any discussions with Mr. McCloskey about this case?
A I don't recall.
Q Right after it was heard before the Board of Pardons?
A September, I probably have, Mr. Kohn. I don't recall anything specific.
Q And right after September 29 do you recall when you first talked to him about it?
A Right after September 29?
Q Yes, of 1956?
A 1956?
Q Yes?
A I think he was a traveling man at that time and was traveling a great deal.
Q Do you recall right after the matter of commutation came out in the newspapers whether you had any discussions with him?
A No.
Q Do you recall when first after that you talked with him about it?
A No, I don't.
Q He did not call you and congratulate you and tell you that he was glad that it had been commuted?
A No. He probably, you know, during the first conversation, I woudn't be a bit suprised if he didn't say something like that.
MR: KOHN: I have no further questions.

BY CHAIRMAN TOMPKINS:

Q Did Mr. McCloskey ever tell you that he had stopped in to see any Member of the Board of Pardons?
A No sir.
Q He never told you that?
A No sir.
Q Did he ever discuss with you the question of maybe getting political assistance or aid along the way some place?
A In this case?
Q Yes?
A No sir, he did not.

BY MR. KOHN:

Q When did you first find out or when was the first moment that you found out that the commutation was granted?
A Through the Philadelphia Inquirer.
Q Through the Inquirer?
A Yes.
Q You found out from the newspaper. You didn't receive any calls from anybody?
A No, we were calling the newspapers.
Q Who were you calling?
A The newspaper.
Q You were calling the newspaper?
A Yes.
Q What gave you the idea the newspaper would have any information on September 29?
A Well—
ATTORNEY GENERAL McBRIDE: Well, he was going to die shortly thereafter if something didn't happen.

BY MR. KOHN:

Q What made you think that they would have any information exactly on the 29th, which I think was a Saturday?
A That's right. I think the first word that I had was round seven o'clock, and it came from the Philadelphia Inquirer. We called and asked if they had any word.
Q What made you call the paper exactly at that time as to whether they had any word instead of at four o'clock that afternoon?
A I probably called at four o'clock.
Q Do you remember who you talked to at the Inquirer?
A We just dialed the number.
Q You just dialed the number and asked for information?
A Asked for information.
Q When did Mr. Witkin then first contact you to inform you about this?
A About the—
Q About the commutation?
A Well, after I got the word from Philadelphia Inquirer, Mr. Tompkins, I didn't wait for word from anybody. That was cause for celebration, and I made plans to go up and visit him the next day.
Q Do you know if the Board of Pardons sent a wire to any member of the Darcy family that the commutation had been granted?
A Well, sir, my sister has since died, and her husband is presently confined in an institution as a result of this tragedy.
Q I understand so.
A And there wouldn't be any member of the Darcy family to send a wire to.

BY SENATOR YOSKO:

Q Miss Ford, let's change the subject a little bit: I did not get a chance to read the record, but I would like to know a little something about the boy. Tell us how old he was and a little something about his background?
A Well, at the time this happened, I belive he was twenty-one or twenty-two. I have thirteen nieces and nephews and it is hard to keep track of their ages.
Q How many children in the family?
A In his particular family, six, but I said I have thirteen nieces and nephews and it is a little difficult to know the ages, but I think of the time that this tragedy happened he was about twenty-one or twenty-two, possibly, and had never been involved in any difficulty prior to this time. He is a boy born a blue baby. He had diphtheria when he was quite small. He had a heart condition and was confined to bed for the best part of a year, and I remember we were so terribly concerned at that time. And as a result he had punctured ear drums.
He tried to get in the Service, in the Navy. His brother had enlisted on his eighteenth birthday, and he wanted to follow in the following year when he was eighteen,

and he tried ten times to enlist, and they kept telling him if you get your ears treated and come back, we will take you.

So, he went to the neighborhood doctor, Doctor Ruchland, and he underwent what I understand was quite a painful series of treatments, you know, to try. And I believe there is some sort of treatment where you can close the holes, you know. And of course this Doctor Ruchland said—well, he didn't want to tell him that they wouldn't take him anyway, but later he went to a doctor who was assigned to the U. S. Naval Base in Philadelphia, and that doctor had told him they wouldn't even take him.

He was really—I mean he was so dejected about that. He was insulted, you know what they do to young boys who were not in the Service at the time, and all that sort of thing. And his parents went so far as to go out to the U. S. Armory, I think it is at 33rd and Lancaster in Philadelphia, and talked to the Officer in charge there, and they said that they would sign any waiver, any paper, that the Government would offer to them releasing the U. S. Government of any liability whatsoever if they would take him for limited service.

He was so desperate to get in the Service. He had asked his parents to do that, and they just did everything possible, and they were very, very good parents.

Q How much schooling did he have?

A How much what?

Q Schooling.

A I think he didn't complete his high school. And that again is a story, you see, because of the heart condition. And his mother naturally felt that he would never be able to do any hard work or anything of that sort, and she wanted him to take the commercial course, stenography and typing, commercial subjects so he wouldn't have to work hard, and so on.

Where he went to school I think there were about 200 girls and two boys. So, consequently that is when he started to play hookey, you know, because he didn't want to get mixed up with all these girls.

As a result—although after that he was employed at Temple University as a messengar. He was very well liked, and they wanted him to complete his schooling. He was a clean-looking boy.

He treated me with respect. I never went in the house that he wouldn't say, "Hello Aunt Marian," and so on. We have no idea what happened or what caused this; I don't know. It is just a tragedy that hits that you think cannot happen to your family, that your family is a little different, but I guess it teaches us humility.

Q This was not a matter of him being a bad boy all his life was it?

A No, no.

BY REPRESENTATIVE LOPRESTI:

Q You did talk to many other people besides Mr. McCloskey during these years?

A Anyone who would lend me a sympathetic ear. As a matter of fact that awful Sunday night, April of 1951, Mr. Witkin called the apartment. That was shortly after his wife had died, and he knew that we were grieving terribly that night, and he wanted to know if he could come over. There were the members of the family there, and Mr. Witkin came over and he tried to console us and cheer us and things of that sort.

Now, how can you pay a fee for something like that for the kindensses and understanding and friendship that he extended to us when we so sorely needed it? You just can't put a monetary value on that. And the same has been true of all other attorneys connected with his case.

You see, God sends you the cross and then He sends you the ways to work them out.

BY MR. KOHN:

Q Miss Ford, did you ever interview the families of Kelly or Hellerman?

A Not personally, but I am told that they tried to interview the Kelly family to try to make some restitution for Reverend Reubinski.

Q Who tried to make some restitution?

A The father, Mr. Darcy.

Q The father was not in a financial position to make any, was he?

A Well, whatever they could have done I would have helped them, Mr. Kohn.

Q Did you ever see them? Did you ever talk to the two families of the two dead men?

A No.

Q Did you send your lawyer or a lawyer to see them?

A No sir, but I do know that the members of the immediate

Q You don't know how badly in want they are or how many children they have?

A No sir, I don't know, Mr. Kohn, really I believe Mr. Kelly was unmarried. I couldn't tell you for sure, so I would rather not say.

BY ATTORNEY GENERAL McBRIDE:

Q Have you remembered the dead men in your prayers, too?

A You should see my prayer book, Mr. McBride.

Q You prayed not only for David, but for the people who were killed?

A Yes, I do.

Q We all do.

A I am sure, and Mr. Margiotti and everyone.

CHAIRMAN TOMPKINS: Is there anything further?

MR. KOHN: No sir.

CHAIRMAN TOMPKINS: Any witnesses who are here who appeared for the purpose of testifying and who have not yet testified will return to the hearing tomorrow morning at 10:00 a.m.

So far as we know we have completed with Miss Gordon and Miss Ford. If they want to come back tomorrow morning, we will be very happy to have them here.

The hearing is now recessed until 10:00 a.m., tomorrow morning.

(Whereupon, the hearing recessed at 10:02 p.m., to Thursday, April 11, 1957, at 10:00 a.m.)

This is to certify that the proceedings and evidence are contained fully and accurately in the notes taken during the hearing before the Joint Legislative Committee

to Conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same.

A. J. PLESCE
PATRICIA L. SAYER

Reported by:

A. J. Plesce
P. O. Box 582
Harrisburg, Penna.

Patricia L. Sayer
P. O. Box 496
Harrisburg, Penna.

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

AT HARRISBURG, PENNSYLVANIA
DATE APRIL 11, 1957

VOLUME XII

PATRICIA L. SAYER
P. O. BOX 496
Harrisburg, Penna.

CEdar 2-2832

INDEX

Committee Witnesses	Direct	Cross	Redirect	Recross
Matthew H. McCloskey	2220	2239		
J. Dress Pannell	2241	2255		
Morton Witkin	2256	2291		
Frank R. Hean (Recalled)	2300			
James William Evans (Recalled)	2313			
James K. Arnold (Recalled)	2314			

BEFORE

JOINT LEGISLATIVE COMMITTEE

TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearings held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a.m., Thursday,

April 11, 1957

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

VICTOR H. WRIGHT, ESQUIRE, Deputy Attorney General,
Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel).

JAMES K. ARNOLD, ESQUIRE, 2109 Market Street, Camp Hill, Pennsylvania
For—Committee (Assisting Counsel).

April 11, 1957

CHAIRMAN TOMPKINS: The appointed hour having arrived, these hearings will resume.

All right, Mr. Kohn.

MR. KOHN: Mr. McCloskey, will you please take the stand, sir?

MATTHEW H. McCLOSKEY, having been duly sworn, testified as follows on

DIRECT EXAMINATION

BY MR. KOHN:

Q What is you full name, Mr. McCloskey?

A Matthew H. McCloskey.

Q Where do you reside?

A I live at Indian Rock and Ingeborg Road in Overbrook, Pennsylvania.

Q What business are you in Mr. McCloskey?

A My principal business is builder.

Q You are in the contract business?

A I think all of us are contractors. We all contract for our service. I think we are builders rather than contractors. We place quite a difference in those words.

Q What position do you hold in the Democratic Party nationally?

A I am the Treasurer of the Democratic National Committee.

Q What position do you hold in the Democratic Party of the State?

A I am Chairman of the Democratic State Finance Committee.

Q Mr. McCloskey, do you know Marian Ford?

A Yes.

Q Was she connected with you back in 1934, when

you were on the Democratic Finance Committee for the city of Philadelphia.

A I think I was co-leader with Mr. Kelley. We started in 1933 to 1938. I think she came to me in 1935.

Q In what capacity?

A Secretary.

Q Was that in your own business?

A No, for the Democratic City Committee, and she was on their payroll.

Q Has she ever been on your payroll at any time?

A Never.

Q How long was she connected with you in that capacity, sir?

A As I said, I told you, from 1935 to 1938.

Q Do you have your offices in the same building that she has her offices at the present time?

Q Well now, the Democratic—

Q I mean your present location.

A No, I don't have my offices there. My building and any of the offices I have there are for the Democratic State Committee, which is shared by some of the other people who are in the Committee.

Q Is there a connecting door between her office and your office?

A That's right.

Q And she has her name on the front of her office, is that correct?

A That is correct.

Q And Mr. Pannell has an office next door, doesn't he?

A No. Mr. Pannell is on the eighth floor, and we are on the thirteenth floor.

Q I see. Her office is right next door to the Democratic Headquarters in Philadelphia, in the Suburban Building at the present time?

A Suburban Station Building.

Q Why is there a connecting door? Is she still rendering some serve to the Committee?

A No, but she does some business with some of my other companies. As a matter of fact, she uses the anteroom there when she has settlements.

Q Now, were you in Harrisburg on September 29, 1956?

A Well, could you—

Q That was Saturday, September 29, 1956, the day this commutation was signed by the Governor.

A No sir.

Q Was your car in Harrisburg?

A No sir, not to my knowledge.

Q Do you know where you were at that time?

A September 29?

Q That was a Saturday, when the Governor signed this commutation.

A No, I don't recall. I would have to look at my diary. I have an idea that I was in Washington. It was during the campaign, and that was where I spent most of my time.

Q But you would say you were not in Harrisburg?

A Yes, I would say I was not in Harrisburg. That is the best of my knowledge, I believe. In fact, I am sure I wasn't.

Q Did you make any telephone calls to Governor Leader on the 28th or 29th of September?

A Not to my knowledge—well, now, you mean about this case?

Q Did you make any phone calls?

A Not to my knowledge.

Q From either Washington or Philadelphia?

A Not to my knowledge.

Q When did you speak to him before September 29, 1956, if you recall?

A I don't have any notion.

Q You weren't in York that day?

A No sir.

Q You weren't at the farm of Senator Leader in York that day?

A Never been there.

Q Never?

A Never.

Q Did you have any representative here in the Governor's office on that day?

A Not on that day or any other day; we never have a representative up here.

Q I mean in connection with finding out whether the Darcy commutation had been granted?

A Nobody.

Q Did you send anybody to Indiantown Gap?

A No sir.

Q You yourself or anybody else?

A No sir.

Q How did you become interested in the Darcy case?

A Because of my association with Miss Ford.

Q And besides Miss Blatt, you gave that to other members of the Board, too, did you not, copies of the brief which you gave her?

A It was an opinion of the Circuit Court of Appeals.

Q You gave Senator Furman one, too, didn't you?

A I gave Furman and Finnegan and the Attorney General each one.

Q And you visited them each sparately, did you not?

A That's right.

Q And that was on the same day?

A What day?

Q The day that you gave them to Miss Blatt?

A Oh, yes.

Q Do you recall a certain political gathering at which Miss Blatt and Mr. Furman and members of the Pardons Board were there and you rose and made a public statement in which you stated what you felt with regard to the Darcy case? Is that right?

A No sir.

Q Do you deny that you made such a statement?

A No sir.

Q You just don't recall?

A I just don't recall. If you could refresh my recollection, I might be able to tell you.

Q Besides this particular occasion when you spoke to Miss Blatt, Mr. Finnegan, and Mr. Furman and gave them this brief, were there other times that you spoke to the Board of Pardons in connection with the Darcy case?

A No sir.

Q That was the only time that you can recall?

A Yes sir.

Q But you might have made public statements in their presence at other times in discussing it?

A I don't think so; but, of course, it is a possibility.

Q You were very interested in it, were you not?

A That's right. There wasn't any secret about it. I think the Inquirer and the Bulletin saw to it that everybody knew about my interest.

Q Do you have any interest in Darcy, or was your interest in Miss Ford?

A My interest primarily came through my association with Miss Ford. I saw the grief that had stricken the household. I knew the father. I didn't know this boy. And when I found out the circumstances of what had gone on, I felt that an injustice had been done and something should be done if possible to rectify it.

Q Your knowledge, of course, came from Miss Ford exclusively, did it not, in regard to what had been done and what happened?

A Well, from her and her father. I talked to Judge Bok about it once, and he felt the same way about it.

Q When was this that you spoke to Judge Bok about it?

A In the very beginning, when I first took an interest, after the trial.

Q Do you know whether he then wrote a letter to the Board of Pardons?

A He told me he was going to write such a letter.

Q That was after you talked to him?

A I don't know whether it was after or whether he had already written such a letter.

Q Did he tell you he had written such a letter?

A Yes. He said he either had written or was going to write.

Q Did you know that he had written a letter a year later, too?

A Only from what I have seen in the papers. I have never talked to him since.

Q Now, Mr. Pannell represents your enterprises, is that correct?

A He was one of our legal staff.

Q He has been with you since—

A My association goes back to, that is, with Mr. Pannell, to about 1926 or '27, some place around there. He was an attorney for the Brotherhood of Locomotive Engineers down at Sixth and Maclay, and we built that building for them and he was their attorney. That is how I got acquainted with him.

Q Does he represent you on your personal legal matters?

A I never have any personal legal matters.

Q Did you ever draw a will?

A Yes, but he didn't do it.

Q So, he only represents you in business matters?

A That's right—oh, I don't know that if I had a personal matter I wouldn't have him consult me, but it just hasn't arisen.

Q I see. Did you interest Mr. Pannell in becoming associated with this case?

A My recollections of it is that Margiotti, knowing of Pannell's association with me called Pannell in to do some legal work for him, I think, in the very beginning. And he asked me what was my thought in the matter and I, of course, encouraged him to go ahead and do whatever he could in connection with it.

Q Did you have anything to do with the connection of Morton Witkin as counsel in this matter?

A I talked to Mort Witkin in the very beginning of this case and told him that I thought I would like to have him see what he could do; and he said he would take it on; and we sent Mr. Darcy over to him. And Mr. Darcy made the arrangements with him.

Q Did you have anything to do with the hiring of Webster Achey of Bucks County in the trial of this case?

A No, I never had anything to do with it until after the conviction. I hadn't done anything.

Q However, Miss Ford did talk to you about it at the time it happened?

A I knew about it the day it had happened.

Q That isn't my question. I am asking you whether or not Miss Ford talked to you about it at the time it happened, right after it broke in the newspapers. Did she consult with you?

A Oh, yes, yes.

Q At that time did you make any effort to obtain counsel for Darcy?

A No.

Q So you didn't become interested in it, in the legal proceedings, until after the conviction, is that correct?

A That's correct.

Q Did you have anything to do with the obtaining of Thomas McBride to represent Darcy before the Supreme Court of Pennsylvania?

A No sir.

Q Did Mr. Witkin do work for your business enterprises?

A Well, he has a suit against us now. That is the only time we have ever had any legal entanglements with him. No, he has never done any business with us.

Q Have you drawn any checks to the payment of Mort Witkin?

A Not to Morton Witkin; and I would just like to make a categorical denial that at any time to anybody either directly or indirectly have I laid out any money in connection with this trial, unless you want to get into real knick-knacks, whether I paid my carfare to come to Harrisburg or some expense account; but never to anybody.

Q That includes Mr. Pannell?

A That includes Mr. Pannell.

Q As to knick-knacks, do you mean that your car was used by Mr. Pannell to go to Rockview several times?

A Could be; could be; yes.

Q Do you know who the driver of that car was?

A Danny McNeill.

Q At that time I think the Warden was Cavel, was he not?

A I don't know. I never was there.

Q Would you tell us where you obtained the copies of the briefs which you gave to Mr. Finnegan, Mr. Furman, and Miss Blatt, and the Attorney General, Mr. McCloskey?

A I got them from Judge Pannell.

Q And it was your purpose when you came here to give each one a copy of that brief?

A That's right.

Q I don't think that was a brief—that was a decision of the Circuit Court?

A That was an opinion of the Circuit Court of Appeals.

Q It was a four-three decision?

A That is correct.

Q Why did Mr. Pannell tell you to give that to each member of the Committee?

There was no case pending before the Board of Pardons at that time?

A Mr. Pannell didn't tell me. This was my idea.

Q There was no case pending before the Board of Pardons in the Darcy matter at that time, was there?

A That is correct.

Q What was your purpose in giving to each member of the Board of Pardons a copy of that?

A Of course, because of my interest in this case, I felt that there wasn't any way that anybody was ever going to know what that opinion had unless they read it.

Q What was wrong or why didn't Mr. Witkin, Mr. Pannell, or Mr. Margiotti afford the Board of Pardons this decision?

A When I decide to do something, I don't have to ask somebody why they don't do it; I just do it myself. That is how we got things done in many instances.

Q Nevertheless, you had not been counsel of record in this case.

A I was a citizen of the United States. I felt I had the legal right to go in and talk to them. I don't know that there is any law against it. I just took the bull by the horns and handed it to them and asked them if they would read it.

Q However, you never attended any of the hearings of the Board of Pardons or any of the legal proceedings that had taken place prior to this time, had you?

A No sir, I never talked about it to the Board of Pardons.

Q But you did talk to each one separately?

A I did talk to each one separately, and I asked them to read that brief; and that was in June or July of 1955.

Q May I ask you whether or not, when you distributed these briefs to each member of the Board of Pardons, you gave the Governor a copy thereof?

A No sir, at no time did I ever discuss this matter with the Governor until after he had signed the commutation.

Q And what was the reason for that discussion?

A I just met him and told him that I understand this had gone through and I told him that I was delighted, and I reminded him of the fact that I purposely had never talked to him about it because I didn't want him to think that I was trying to influence him in any way.

Q Would you mind telling us what the Governor said?

A The Governor said that he felt that the decision of the Board of Pardons was a very fair one and that he affixed his signature as evidence of the fact that he approved of it.

Q Did he tell you where and when he affixed his signature?

A No sir, he did not; nor did I ask him.

Q Do you recall how much time you spent with Miss Blatt on your visit to her office, approximately how long?

A I never spend much time, a matter of minutes.

Q How long previous to that had you visited her at her office?

A Well, every time I come to Harrisburg I go there. Now—and it is not too frequently—

Q How long did you spend with Mr. Finnegan?

A About the same time. I come up here and I usually have a list of things that I would like to talk about with the various departments, and I walk in, state my business, and get out. I usually don't have much time as the law allows. I have to get home for dinner every night or Mom raises the dickens.

Q Now, Mr. McCloskey, did you ever see to it that Mr. Harner got a copy of that brief?

A I never talked to Mr. Harner about it.

Q You didn't see that he got a copy of it—I mean the decision?

A Yes. Never talked to Mr. Harner about it.

Q Had you ever had any conference with Mr. Margiotti in Philadelphia at your office in connection with this case?

A No, not in my office. I did talk to him one day—

Q At the hotel?

A At the Bellevue-Stratford; I met him one time there.

Q Will you tell me whether or not you ever advanced Marian Ford any money on account of a loan during the last five years?

A When I told you that I didn't advance any money to anybody, I meant to include her. At no time did I ever lend her any money; I never advanced her any money; only paid her when she did her work. When she would get her settlements, she would take out of the settlements what was coming to her, and we would get a check for the balance.

Q What kind of property was she handling for you?

A We built about 800 homes in Philadelphia that we called Academy Gardens, and we built about 300 more homes in the suburbs, which we called White Marsh Village in Montgomery County. I think Mr. Greenfield's office handled it first; and then they turned it over to a firm by the name of Pace; and they weren't going very good, and then finally we turned it over to Marian, and she really did a good job on it.

Q In the 1954 campaign in which Lieutenant Governor Furman, Mr. Finnegan, and Miss Blatt, and the Attorney General were active, did you come into active contact with them?

A Very rarely.

Q Were you the treasurer who raised a half million dollars—

A I was Chairman of the Finance Committee.

Q There was an article in a newspaper stating that you raised over a half million dollars yourself in that campaign.

A When you say "yourself," I mean I was the Chairman of it, and you know, I am sure—

Q You are saying I know?

A Yes, all of you know that I don't do it myself. You have to have help. I was just the managing director.

I did a good job, too good a job. That is why I got the job with the National Committee. I wish I hadn't done it now.

MR. KOHN: I have no further questions at this time.

BY SENATOR YOSKO:

Q Mr. McCloskey, as a citizen of the United States, in your opinion do you have a right to express your point of view in any matter of public interest?

A Well, whether I have the right or not, I have done it so very often and never was challenged for it that I have continued to do it, and I am fearful that being that I am getting to the stage of life at the age that I am now, I don't think I am going to stop.

Q Mr. McCloskey, as a citizen, do you think you have a right to employ a lawyer or lawyers in any matter in which you have an interest that involves government or anything else?

A I think so.

Q Did you do anything that might be deemed improper in connection with the Darcy case?

A No sir, in my estimation.

Q And when you come to the Capitol and you visit Miss Blatt or Mr. Finnegan, is it in connection with political matters, or was it always about this Darcy case?

A I don't think I—I know I never talked to them about the Darcy case, but that one time; and when I come to Harrisburg, I come on Democratic State Committee business.

SENATOR YOSKO: That is all.

BY CHAIRMAN TOMPKINS:

Q Mr. McCloskey, last evening Miss Ford stated that she had discussed this matter quite frequently with you; and I asked her a question as to whether or not you ever advised or directed her in any of her strategy or what she should do or whom she should meet, contacts and so forth. She said that she didn't recall that you ever did. Do you recall that you ever advised her or such like that?

A That is a pretty broad question. I don't know specifically what you are talking about. For instance, I saw her before she came up here on Tuesday, and she was terribly upset about coming up. She thought it was going to be—

Q Did you ever make any suggestions?

A I tried to comfort her and told her to tell the truth and not worry.

Q Did you ever tell her what attorney she ought to get in touch with?

A No, I never did.

Q Or what proceedings she ought to take?

A No sir.

Q Or what she ought to do in connection with it?

A No sir. I thought that they were purely legal matters, and she had competent attorneys, and she should follow their advice. I may have given her that much advice.

Q I believe you said you paid for your carfare and things when you came to Harrisburg here—

A Well, I say I did. Actually, I have a pass on the Pennsylvania Railroad, and when I come up here by the railroad, I don't have to pay.

Q Do you know how many times your car came up to Harrisburg with Mr. Pannell or Mr. Witkin in this case?

A I don't think Mr. Witkin ever rode in my car; and I don't know how many times Pannell, I don't think he came too often.

Q And you say that Mr. Daniel McNeill was working for you at that time?

A What time?

Q Well, when you took Mr. Pannell around.

A Oh, yes.

CHAIRMAN TOMPKINS: All right.

CROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q The copy of the opinion which you handed to the various members was, as I understand it, about a year and three months before the case was ever argued before the Board of Pardons?

A That is correct.

Q And it contained both what is known as the majority opinion and the minority opinion?

A That is correct.

Q Both sides of the case?

A That is correct.

Q Did you ever attempt to use any political pressure or persuasion upon anybody in connection with the Darcy case?

A Well, the four members of that Board, as it was then constituted when I came up there, and I think you and I know when you take an oath, it is a call upon God to witness the truth of which you speak. Now these people have all taken an oath to perform their duties up here. I happen to know them personally. I don't think any of them for anybody would violate that oath; and therefore, of course, I would be the last one to ask anybody to violate it. I don't violate them myself and I don't ask anybody else to violate them?

ATTORNEY GENERAL McBRIDE: That is all.

MR. KOHN: That is all.

CHAIRMAN TOMPKINS: That is all, Mr. McCloskey. Thank you very much.

MR. KOHN: I will call Mr. Pannell.

J. DRESS PANNELL, being duly sworn, testified as follows on

DIRECT EXAMINATION

BY MR. KOHN:

Q Your name is J. Dress Pannell?

A It is.

Q You are a local boy?

A Yes.

Q You are a member of the Dauphin County Bar and have been for many years?

A Yes sir.

Q How long?

A Since 1916.

A And are you a Judge of this County?

A I was in 1937.

Q How long have you been connected with the business association of Mr. McCloskey?

A I have known Mr. McCloskey for approximately thirty years, and since 1940 I have had contacts with him in a personal way.

Q I think for many years you had your office in the Brotherhood Building in Harrisburg, did you not?

A Yes.

Q At the present time, however, your office is located in Philadelphia?

A In the Suburban Station Building.

Q Is that the same building that Marian Ford has her office?

A It is.

Q You are next to her, are you, or are you on another floor?

A My office is on the eighth floor and hers was on the thirteenth

Q Do you represent her in any business matters?

A Well, frequently she asks for advice and suggestions about personal matters because our contacts were more or less frequent.

Q How long have you been associated with the David Darcy case?

A Since April 1, 1951.

Q And do you know if Mr. McBride was in the case at that time?

A I have no knowledge of who counsel were or anything in connection with the trial or the applications to the Board of Pardons prior to that date.

Q When were you first retained to represent David Darcy and how did that come about?

A Well, when you speak of being retained, I would, of course, say that contemplates a conclusion. What I would like to tell you is how I happened to be interested.

Q All right.

A When I refer to the first day of April, 1951, I was in my office here in Harrisburg in the afternoon. It was Sunday afternoon, and Charlie Margiotti called me from Pittsburgh, and the execution of the Darcy matter was to take place, as I recall, on Sunday at midnight. And he said that an application had been made to the Governor for a reprieve, and whether I would be in my office that evening to receive the notice if there was any extention of time so that there could be presented to the Supreme Court of Pennsylvania the following day a petition in connection with the Darcy case for a certiorari and reargument.

I told him that I would arrange to be in the office in the evening. And I was there, and it must have been about half past eleven when the Governor's office called me and advised me that there had been an extension, if I recall correctly, to midnight of April 3, or the beginning of April 4th of 1951.

After I received that information, I called Mr. Margiotti in Pittsburgh and he asked me if I would be in Philadelphia the next morning to file the petition with the Supreme Court of Pennsylvania.

I went to Philadelphia in the morning and I filed the petition, which he prepared and had mailed to Philadelphia, with the Supreme Court of Pennsylvania. That was on Monday.

Q Let me interrupt you there. What made Mr. Margiottti think that you might be interested in this case? Was he doing work for Mr. McCloskey?

A Well, of course, I had been a Deputy Attorney General under Charles Margiotti back in the Earle administration, and, of course, at that time and from 1937 on, he knew that Mr. McCloskey and I were friends.

Q Did you ever do any work for Mr. Margiotti previous to that time?

A Previously I did no work for him. You mean professional work?

Q Yes.

A None other than a deputy in the assignments that were made from time to time when I was a deputy.

Q I mean between the time that you were a deputy and the particular time you had no business connections with him?

A No.

Q And you would not know why he singled you out to help him on this particular case?

A No, I wouldn't know why he would single me out except that he had known me.

Q Margiotti had many contacts in the city, including some deputies who had been connected with his firm. did he not?

A Absolutely.

Q And what arrangements were there at that time between you and Margiotti in regard to the fee that might be involved for those services?

A There was no conversation about fees or anything else. He did not say why he called me or anything. He just wanted to know whether I would be available in the evening, and he told me what he expected, and whether I would get the message?

Q Up until that time you were not interested on behalf of Marian Ford, but you became interested through Charles Margiotti?

A I knew very little about the Darcy case execpt generally, and Miss Ford's interest and her connection, but the first suggestion of any work in connection with it professionally was at the request of Mr. Margiotti.

Q And how do you explain the fact that there was no conversation in regard to the legal fees and expenses which might be involved in your services and the transportation to Philadelphia and the other legal expenses incident to the filing of such briefs?

A Well, what he had in mind was that I should get a telephone message and convey it to him and be in Philadelphia the next day. At that time I went to Philadelphia frequently. It did not seem to me that that would be necessary whether he asked it or whether you asked or whether some other person under the circumstances just delivering a petition, particularly when I frequently made the trips.

Q Then you did stay in the case as counsel from that point until the commutation was granted?

A I may say to you that after I filed the petition I called Mr. Margiotti in Pittsburgh and told him it had been filed, and then he asked me whether I would prepare the petition for a writ of habeas corpus which was to be filed in the United States District Court. He said he did not have time to do it and he did not know how quickly the Supreme Court of Pennsylvania would dispose of the petition which I had filed that day.

So I prepared in the afternoon and evening such petition, and it is a petition which was finally filed in the United States District Court. And Miss Ford typed it; that is, it was typed in her office.

Q Had you in your previous practice ever prepared a petition in a criminal matter before?

A Well, in criminal matters I would doubt very much if I had any previous experience and it was very unfortunate. I realized at the time when I was preparing petitions under those circumstances without the benefit of research and available information, a petition of that kind, and particularly realizing that whatever had to be done had to be done immediately or that it wasn't done at all. And I had the benefit of some petitions which I used in drawing up the one which was later filed.

Q Did Mr. Margiotti explain to you why it was with his large legal staff that he was putting this last minute job on you for the second time?

A No, he didn't except that he did not have time to do it. And of course, at that time he did not know—no person knew when the Supreme Court of Pennsylvania would dispose of the petition.

Q The petition before the Pennsylvania Supreme Court was pending, and no decision had been rendered?

A That was on Monday and the next morning, fortunately the preparation—regardless of how adequate or

precise it was—fortunately it was prepared and could be signed by counsel the next morning, because at ten o'clock I was advised by the prothonotary of the Supreme Court that the Supreme Court of Pennsylvania had refused the petition which meant that this boy was scheduled for execution at midnight.

Q Now, how many cases have you had before the Board of Pardons in the last twenty years outside of the Darcy case?

A Comparatively few.

Q Have you had any in the last ten years, Mr. Pannell?

A I would say within the last ten years, no.

Q And who prepared the briefs for the hearing in 1956?

A You mean for the Board of Pardons?

Q Yes.

A The rough draft was prepared in Mr. Margiotti's office and was forwarded to me, and I went over it and then consulted with Mr. Margiotti about certain suggested changes in it, and those changes that I made were forwarded to the printer in Camden to have the brief printed.

Q Who made the trips to the pentitentiary for the signature of Darcy on the habeas corpus petitions and the petitions of the Board of Pardons and the Supreme Court of the United States, do you know?

A Well, my recollection is on the application to the Board of Pardons, I gave that to Miss Ford. It was sent up, I think, by Joe Darcy.

Q Who?

A Joe Darcy.

ATTORNEY GENERAL McBRIDE:

Q The father or the son?

A It was the son. Regarding the petition to the District Court, my recollection is that Mr. Witkin and I signed that.

BY MR. KOHN:

Q Were you and Mr. Witkin up to Rockview together?

A No, I am talking about the application to the United States District Court.

Q Didn't Darcy have to sign the affidavit?

A He did not sign that. The affidavit was made, as I recall, by Mr. Witkin and myself.

Q How many times did you visit Darcy personally?

A The young man?

Q Yes.

A I never visited him—you mean at Rockview?

Q Yes.

A The first time I saw young Darcy was at Scranton at the hearing before Judge Murphy and that's the first time that I saw him. I never knew him.

Q You appeared in Scranton in the Middle District Court hearing?

A I went along with Mr. Margiotti at his request.

Q And you went along to the Circuit Court of Appeals hearing?

A May I say that that hearing of April 5, which was scheduled under the Order of the United States District Court, I attended that hearing which lasted one day. After that I had nothing to do with the case until we went to the hearings in Scranton.

All of the papers in connection with the matter after the first Scranton hearing were prepared by Mr. Margiotti. As a matter of fact, they were printed by him. I was not conferred with and had nothing to do with them.

My next connection, as I recall it, was at the time of the hearings, the formal hearings, after the disposition of the case by the United States Court of Appeals. I accompanied Mr. Margiotti upon the occasion of the argument, at least one argument, before the United States Court of Appeals. The papers and briefs and everything were prepared in his office without any consultation.

Q Where did the argument take place before the Circuit Court of Appeals?

A In Philadelphia.

Q What about the hearing at which the Circuit Court of Appeals remanded the case to the District Court for further hearing? Did you attend those hearings?

A There was one argument that I attended. The first argument that was made by Mr. Margiotti I did not attend. I think it was the re-argument before the full Court that I attended.

Q Did you attend the argument before the Supreme Court of the United States?

A I did.

Q Now during all this time what arrangements were made by you and Mr. Margiotti in regard to your expenses in connection with your daily attendance at these hearings and arguments?

A No arrangements and no conversation in regard to them were had with Mr. Margiotti.

Q Margiotti took it for granted that you were doing this for free?

A Well, he certainly did not discuss it with me. He did not volunteer that you are here and what do I owe or anything of that kind.

Q You never asked him for any fee?

A I did not ask him. I did not discuss it. I had no arrangements with him whatever.

Q You had no hotel expenses?

A Yes, I had hotel expenses.

Q Did you pay those yourself?

A Yes.

Q You never asked Mr. Margiotti to reimburse you?

A No.

Q And—

A I never asked Mr. Margiotti for any reimbursement or any money in any way, shape or form.

Q And were you ever paid anything by Mr. Margiotti?

A Never.

Q Were you ever paid anything by Miss Ford?

A No.

Q Were you ever paid anything by Mr. McCloskey?

A Never paid anything by Mr. McCloskey.

Q Or by anyone in regard to this case?

A I have not been paid by anyone.

Q So that you spent some of your own funds in connection with this case, quite a substantial amount, for traveling expenses, hotel expenses, traveling to Washington, Scranton and different places, is that correct?

A That's right.

Q And at no time did you discuss who was going to pay you or why you were interested in this case?

A No. After I got into it and learned particularly of the facts and circumstances incident to the trial which appealed to me, if there was any help to be given, I was glad to render it.

I recognized that Miss Ford had a heavy expense and what I was doing up until the time that I argued the question of the certificate of probable cause before the Judge, Judge Kalodner, I had expended very little time and very little effort; but from that time on I did take a more intimate part in arranging for the printing of this brief and the record and things of that kind because it could not be done in Pittsburgh.

Q Did you spend any sums of your own money for the filing of the appeals or certificates for argument?

A I think that I expended some filing fees.

Q And receipts were issued in your name, were they not?

A Yes, I would say that they were.

Q And at no time did Mr. Margiotti, during the time that you were rendering this service at his request, disclose to you that he was receiving approximately $15,000 for his services?

A He never discussed fees. I never knew of any arrangements. If there was any arrangement of anything that he had with Miss Ford—although I did understand from conversations generally that he was being compensated by her.

Q And subsequent to Mr. Margiotti's requesting that you get into this case and the services you rendered, did he ever send you any other legal work for which you were paid?

A No.

Q You never got any other case out of it?

A No, no reference at all.

Q As I understand the gist of your testimony, it is that you got into this case at the request of Mr. Margiotti and continued at his request to perform services—

A I would say that that was my initial interest in it. That is how I started, but of course, I knew Miss Ford and had known her for years and just like any other individual who, under such circumstances, may be in need of help, that if I could be of any assistance, such as preparing that petition, as you have pointed out, one in which I fully realize my limitations under the circumstances and so on, it was a terrific responsibility to have that pressed upon you knowing that if you made a mistake, why, you could not correct it, because this Board would be gone. And I was glad to do it because she had no personnel to do it, and Mr. Margiotti was not available, and his office could not do it.

MR. KOHN: That's all the questions I have. Thank you.

BY SENATOR YOSKO:

Q Did you ever talk to any member of the Board of Pardons about the Darcy case?

A I have never talked to any member of the Board of Pardons about the Darcy case at any time or in any way, shape or form. My connection and limitation was incident to the preparation of the brief and the filing of the brief with the Secretary of the Board of Pardons.

SENATOR YOSKO: Thank you.

CROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Did you exercise any political influence upon anybody, or did you have any knowledge of the attempted exercise or actual exercise of political influence by anybody upon anybody connected with the Darcy case?

A As far as my personal knowledge is concerned, I have no knowledge of any influence in any way, shape or form being used in connection with this case.

ATTORNEY GENERAL McBRIDE: That's all I have.

MR. KOHN: Thank you very much.

(Witness excused).

ATTORNEY GENERAL McBRIDE: May I talk with the Committee for a few moments?

CHAIRMAN TOMPKINS: All right. We will take a five minute recess.

(Short recess).

MORTON WITKIN, having been duly sworn, was examined and testified as follows on

DIRECT EXAMINATION

BY MR. KOHN:

Q What is your name, please?

A Morton Witkin.

Q And what is your profession?

A Attorney-at-law.

Q For how long have you been a member of the Philadelphia Bar?

A Quite long; I would say thirty-eight years, thirty-nine.

Q And have you ever been connected with the Legislature?

A I was a member of the Legislature.

Q What branch and how long?

A I was a Member of the House from 1925 inclusive, continuously until 1936 at the special Session, and I resigned in 1936. I was a Member from the Eighth Legislative District in Philadelphia, and I guess it is superfluous to say I was a Republican Member.

Q And when did you first become connected with the David Darcy case?

A To the best of my recollection, it was about November 10, 1949. I use that date, Mr. Kohn because of my records. From my personal recollection, I would not know the exact date.

Q November 10, 1949?

A Yes.

Q Do you know when that case was tried in Bucks County?

A Only from the history of the case. It was tried in June of 1948, three days after the Zietz and Foster cases, and that was on the 7th of June, I think it wound up, and the Darcy case went on the Monday following the Friday. That might not be right, but it is my recollection.

Q Do you know if Mr. McBride was counsel on that case?

A I do not.

Q Was he counsel of record before the Supreme Court of Pennsylvania at that time?

A I would say I heard of that, but I didn't know it, surprisingly, but I did not know it.

Q Do you know when that case was argued—the Darcy case—on appeal from Bucks County?

A Exactly when? No, but it was argued some time—I have the records here.

Q It was after you got into the case, right?

A Oh, no; it was before. Mr. McBride had apparently argued it and a writ of habeas corpus had been filed when I got into it. The Supreme Court had already decided the case because I got into it for the purpose of filing an application for commutation before the Pardons Board, and I could not have gotten into it—

ATTORNEY GENERAL McBRIDE: The opinion of the Supreme Court of Pennsylvania is dated May 26, 1949. Mr. Witkin says he got in on November 10, 1949.

BY MR. KOHN:

Q Who contacted you?

A Mr. McCloskey was one of those who contacted me.

Q And Miss Ford testified, I think, that you were contacted by the father of David Darcy?

A When I said Mr. McCloskey contacted me—Mr. McCloskey asked me whether I would get into the case for Joseph Darcy.

Q For Joseph Darcy?

A The man who, in my parlance, retained me, got me to take the case, was the father of the boy, Joseph Darcy, a tipstaff in No. 6 Court. I had known him after a fashion, but after I had spoken to Mr. McCloskey, Mr. Darcy came in to see me and asked me to take the case, and I did. And Mr. McCloskey had asked me to get into it before.

Q Now do you know when Mr. Margiotti got into the case?

A Mr. Margiotti got into the case after the petition for commutation, the application for commutation. I had argued it and had been refused. I would say that was the 26th of May, 1959, and Mr. Margiotti got into the case, in my opinion, in my recollection, on June 16, 1950. On June 19, 1950 I wrote a letter to the Pardons Board, joining in the application Charles Margiotti had made to the Pardons Board for a re-hearing of the application that had been refused by the Pardons Board on May 26, 1950.

Q Did Mr. Margiotti contact you, or did you contact Mr. Margiotti in connection with this case?

A You are asking me—oh, I remember now; Mr. Margiotti phoned and asked me whether I had any objections to his coming into the case, and I told him I certainly had none, and I was glad to have him come into the case. That was a day or two or three before the 16th of June, 1950, and then he sent me a copy of a letter and the application that he had filed with the Pardons Board for a re-hearing in the commutation case.

Q Then did you continue on with the case up until the time a new commutation was granted as counsel for David Darcy?

A Well, if you ask me whether I did actually, I would have to say my answer is no. If you asked me whether I did of record and of counsel, my answer is yes, but let me explain that more clearly. From the time that Mr. Margiotti argued the case before the Board of Pardons, which I believe was in March, 1951, from that point on when that application was refused, I had very little, if anything to do with the case until Mr. Margiotti died. I remember attending one argument in Philadelphia when Mr. Margiotti argued the case down in the Federal Court. Whether it was an argument before the District Court or the Appellate Court, I couldn't swear, but I did not prepare any of the papers, I prepared none of the briefs, I had nothing to do with the arguments, and I would say Mr. Margiotti graciously kept my name on as of counsel. I am not apologizing for being on. I would have been glad to have done the work and participated in it, and I am not saying that I didn't do it because I am happy that I didn't do it. I am sorry that I didn't participate, but I would say that up until his death, from March of 1951, or perhaps April, I had very little, if anything, to do with it.

Q This hearing that you attended before the Federal Court—at that time there was a meeting between you and Mr. McCloskey and Mr. Margiotti at the Bellevue-Stratford in connection with the case?

A Say that again.

Q At the time that this case was heard in Philadelphia when you say you attended the hearing with Mr. Margiotti before the Federal Court in Philadelphia, didn't you and Mr. Margiotti and Mr. McCloskey have a meeting in the Bellevue-Stratford the night before?

A Absolutely not, to my recollection; definitely not. I recall no such meeting. My answer is definitely no.

Q Then—

A I don't recall ever having dinner with Mr. Margiotti. I may have, but I never had dinner, to my recollection, with Mr. Margiotti and Mr. McCloskey.

Q After Mr. McCloskey contacted you about getting into this case, did he ever talk to you subsequently about the case again?

A When you say "subsequently," do you mean before or after this investigation started?

Q I haven't come to that yet. I am talking about after Joseph Darcy came in to see you; did Mr. McCloskey again contact you and talk with you?

A He did not.

Q Did you ever talk with him from that time up to the time of the commutation?

A You mean during the period prior to the arguments on September 20, 1956?

Q Yes.

A I did not.

Q Did you—

A As a matter of fact, I had called Mr. McCloskey prior to that time on some other personal matter and he never called me back, and that was prior to the argument and I had tried to reach him. Whether if I had reached him he would have said anything, I don't know, but he didn't because I didn't get him.

Q Did you ever do any work for Mr. McCloskey previous to the time he contacted you to take on the Darcy case?

A No, but I had dealings with Mr. McCloskey when I was in the Legislature, Mr. Kohn. I knew Mr. McCloskey very, very well, and had great admiration for him. He was the representative of the Cardinal in Philadelphia and was interested in legislation affecting the Catholic Church, and as a Member of the House—if I may be so immodest—at some of those stages I was the leader of the Minority and Majority Parties, depending on the whims and caprices of the electors, Mr. McCloskey and

I had quite a number of matters only dealing with legislation concerning the Catholic Church.

Q And subsequent to this commutation, did you talk to Mr. McCloskey about the matter?

A Yes, I talked to him about the matter, I would say facetiously; nothing of any consequence.

Q Did you receive a call from Harrisburg on September 29, advising you that the Governor had signed the commutation?

A I do not recall receiving the call. I recall being in my apartment—my apartment that I use in addition to my home—trying to find out what happened, and I recall getting the information by going to the newspapers. I got the first information that Darcy had been commuted from the newspapers. Now if you ask me whether I got a telephone call, I would have to say to you that, to the best of my recollection, I did not receive a telephone call. I received a letter from the Pardons Board a day or two later—I have it in my file—from Mr. Hean, telling me. He said that I probably had already read in the newspapers that commutation had been granted. But I have no recollection of getting any telephone call from anyone.

Q Now when Mr. McCloskey asked you to get into the Darcy case, you didn't know that Mr. McBride was already in the case?

A No, at that time I did not. Now when I answer that, "No, I did not," I may have known and forgotten, but it never occurred to me because, frankly, had I known Mr. McBride was on the case before, I would not have agreed with Joseph Darcy to accept the case. I would have called Mr. McBride and asked him if it was O.K. to go into it. I have never taken a case in my life that another lawyer was on without first asking the other lawyer if he was satisfied to do it. So it must be that after the time I didn't call Mr. McBride; I have no recollection. But I also concede that shortly thereafter, in reviewing the records, I soon found out that Mr. McBride had been counsel—in not a few days; it may have been a week or two.

Q When Mr. McCloskey contacted you, did he explain to you why he called you to take on the Darcy case?

A I just don't know what you mean by that question. You mean why he was coming in the Darcy case—not why I was coming in?

Q What I am trying to say—perhaps I didn't make it clear—is you had not had any business from him previous to that time. Now did he say anything to you why he picked you out particularly in this matter of Darcy?

A Mr. Kohn, you asked me a question that forces me to make an answer. I want to be very frank thatI prefer not to make that answer because I know it will involve a name that would be improperly involved. However, if you persist in your question, I will answer it truthfully. If you withdraw the question, I won't.

Q We want the facts.

A Yes, he told me that he had been recommended—that I had been recommended—and you will have to pardon my apparent lack of modesty here. It is most embarrassing for me to sit here and tell you what he said because it certainly looks as though, to use the vernacular, that I am blowing my own horn and pretending to be what I am not because somebody mistakenly told him that I was the best lawyer that he could get to argue before the Pardons Board.

Q Did he say that he was sending Joseph Darcy in? Did Mr. McCloskey say that he was sending Joseph Darcy in?

A Mr. McCloskey called up Joseph Darcy some where while he was in my office and Darcy came in shortly after he left.

Q You mean Mr. McCloskey was in your office?

A Yes.

Q And then Darcy came in, the father?

A Yes.

Q Now will you tell us how much you were paid over the period of time by Joseph Darcy or Mr. McCloskey?

A I was not paid a single solitary penny at any time. The only thing of value that I received, I received from the lady whom I consider one of the finest characters I have ever met, because I have never met any mother who was more devoted to a son than Marian Ford was to her nephew. She gave me, on December 24, 1956, she sent to Mrs. Witkin a beautiful lamp from Bailey, Banks and Biddle, which I shall always keep and cherish as coming from one of the finest persons I have ever met. That is the beginning and end of anything of any value I have ever received from the Darcy case, and that was on December 24th, accompanied by a card, and I brought the card with me that Marian Ford sent. The card says:

"Just to say a little thank-you and to tell you how sincerely I appreciate everything you did for us.

"Marion R. Ford."

And on the back of it, I have got in my handwriting: "Received 12/24/56."

Q You kept this card?

A I kept it.

Q And made a notation on the back of it?

A Yes, I sure did, because I figured I would be asked the question and kept the card because I thought it was mighty unnecessary for her to do it, but mighty fine of her. I know of no person for whom I have a higher regard.

Q You felt on December 24, 1956 that you might be asked about the matter?

A No. At that time the investigation had been talked about and there were campaign promises that there would be an investigation. I didn't think I would be asked about it; I knew I would be asked about it, and I kept the card purposely.

Q And who paid your expenses?

A I paid all my own expenses.

Q Did Mr. McCloskey ever pay anything to you in regard to the Darcy case?

A I never discussed money in any fashion whatsoever with Mr. McCloskey.

Q Did he ever pay you anything?

A He never paid me anything; I never asked him.

Q Therefore, nobody paid you anything?

A Nobody has paid me a penny, not from the day I first got into it, November 10 1949, down to the present time; nobody has promised to pay me anything, nor shall I ever accept anything if it is paid.

ATTORNEY GENERAL McBRIDE: People don't believe lawyers do that sort of thing.

BY MR. KOHN:

Q Who prepared the brief that was filed with the Board of Pardons, Mr. Witkin?

A Pardon me?

Q Who prepared the brief that was filed with the Board of Pardons when the case was argued in September of 1950?

A I can only answer that question by what was told me. I think that Mr. Margiotti prepared it in some form. I think Dress Pannell—some people call it "Pannell," I don't know which is right—I think revised it. I did not prepare the brief. If you look at the brief and read it, you will find it is so good that I couldn't have prepared it. I argued the case.

Q Had you talked to any Members of the Board of Pardons previous to arguing the case or during the day you argued the case, besides presenting the arguments?

A I had not talked to a single person prior to the argument of the case. I depended upon my arguments and the facts of this case to win it, and I think the facts justified my winning.

Q And Mr. Margiotti intended arguing the case as far as you know?

A I couldn't answer that.

Q He prepared the brief?

A Yes, Mr. Margiotti had been ill and I had spoken to Dress Pannell about the case, and Mr. Margiotti, if you recall, was supposed to argue it before the Supreme Court on a certain date, but by reason of his illness, couldn't argue it. It was postponed and whether Mr. Margiotti had intended to argue it or not, I don't know, but Mr. Margiotti finally told me I was to argue it.

Q Had you ever argued the case before the Pardons Board previous to this last argument?

A Yes, I argued the case before the Pardons Board at the May Sesion of 19—just bear with me a minute—at the May Session of 1950, I had argued the case before the Pardons Board.

Q And between that time and 1956, did you ever argue the case before the Pardons Board or any other tribunal?

A No, I appeared in March, 1951, I think, before the Pardons Board and at that time I think I appeared solely for the purpose of saying Mr. Margiotti would argue, but I can't swear to that and just—yes, that is right. On March 20, 1951, I appeared before the Pardons Board, but did not argue the case.

Q The only time you argued was 1950 and 1956?

A That is right.

Q And in 1950, was commutation granted?

A No, in 1950 commutation was not granted, but in answer to that, I think it is only fair to say that in 1950 the reasons for the application for this pardon, as set forth in the application for commutation, were at great and diverse variance with the reasons propounded on September 20, 1956.

By September 20, 1956, as a result of the work that Charles Margiotti had one, three of the judges of the Supreme Court of the United States, Justices Harlan, Frankfurter and Douglas had written and adopted the dissenting opinion of Judge Kalodner of the Circuit Court of Appeals, in which those judges were for granting a new trial to Darcy. In 1950, when I argued the case before the Pardons Board, there was nothing like that before them, but in 1956, if you take the opinion written—

Q Mr. Witkin, we have been all through that. If you could shorten it, we would appreciate it. Miss Blatt has gone into it.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I think we ought to hear this. This was before the Board of Pardons.

THE WITNESS: I think it is most important. For example, in the opinion of Justice Harlan, the reason, Mr. Kohn, I bring that up—and if you don't mind my trying to be a lawyer for a minute instead of a witness—I bring that out is because when you say the Pardons Board in 1950 refused it, and the Pardons Board in 1956 granted it, if you took those two things all by themselves, people would say, "Well, what happened?" Well, there was an awful lot happened and that is the reason I am going into it.

For example, in the dissenting opinion of Judge Harlan, his own, in addition to adopting the views and the opinion of Judge Kalodner, he said: "The reasons for my conclusion are those which Kalodner has well stated in his dissenting opinion in the Court of Appeals." And may I say to you that Judge Kalodner in that dissenting opinion, which then became the dissenting opinion of Justices Harlan, Frankfurter, and Douglas, said that the decision of Judge Boyer was a shock to the conscience of the Courts; and here we have three—

Q Are you reading now or expounding?

A I am quoting. I am quoting the exact verbiage in order that there be no misapprehension—

Q I was merely asking whether you were reading.

A I am quoting from memory, and in order that there be no question that I am not quoting it directly, I shall read the statement.

Q That is what I thought we started with.

A I will read. I am not arguing this matter. I want to get it clear that what I am now saying is what the courts have said. I am not saying that because I advocated this before the Board of Pardons that it was right. I am going to quote to you what the judges have said.

Page 99. Here is the portion of the opinion, of a dissenting opinion, in which I quote:

> "Judge Kalodner: In my opinion, it can fairly be said of Judge Boyer's conduct that this is conduct that shocks the conscience in violation of the due process guaranteed."

Chief Justice Bigg in that case, in his dissenting opinion, Chief Justice of the Circut Court of Appeals, using the words, and I quote from his opinion:

> "Though Darcy had been granted a separate trial pursuant to the Pennsylvania Act of March 31, 1860, 19 P.S., Pa. 75, the severance was rendered worthless when his trial was proceeded with only three days after that of Foster and Zietz. Under the circumstances, a change of venue, or a delay in putting Darcy on trial, was requisite to fairness."

And Judge Harlan's opinion, he said:

> "Judge Boyer was in the courtroom during the Court's charge. From these admitted facts, I consider that the jury must have been conscious of the unusual

interest which Judge Boyer had in the case, and that it might well have concluded that he,"

referring to Judge Boyer—and that is interpolated by me—

"felt the defendant should be dealt with severely. Having regard to the character of the issue with which the jury was confronted, I think these undisputed facts and the inferences which may be drawn from them require us to hold that the petitioner has been denied due process."

And may I say further to you and to the Members of this Committee that in the majority report of the Circuit Court of Appeals, not the dissenting opinion, but in the majority of the Court, they used the words, and I will read them—

Q What is your purpose of putting this in the record?

A I am putting it in the record—

Q It is in the record now.

A I am putting it in the record because I think the people of Pennsylvania do not know and have not been fully apprised of the fact that even the seven judges of the Circuit Court of Appeals, and if you will let me find the citation, I will quote it from memory, said that had Judge Boyer done in the Federal Court what he did in the State Court—and I use their exact quote—they would have prescribed it. In other words, the majority, seven judges, not a minority, but seven judges of the Circuit Court of Appeals condemned and said, in effect, that because it happened, as Judge Kalodner said in his dissenting opinion, on the other side of the street, it couldn't happen, and I will close on that argument by saying one other thing—

Q Wait. Don't argue the thing to me. All this is in the record.

A I am going to quote this that you are going through.

Q Well, this is already—

A No, this isn't. I am going to quote from the majority opinion of the Supreme Court, the six judges of the United States. They said:

"However, he took no action to prevent this possibility from inventing petitioners' trial."

That follows immediately after the statement in the opinion that I am reading from, the majority: "Petitioners' counsel must have been aware of Judge Boyer's statement, of its possible effect, if any, on the jury and the possible effect of Judge Boyer's manifestation of interest."

And then they say: "Justice Burton: However, he took no action to prevent this possibility from affecting petitioners' trial. Accordingly, we may, we may as well speculate that he did not deem it necessary to take any action, any inter alia."

And then they closed with these significant words, and these are the words of the Supreme Court of the United States: "Petitioner has not sustained the burden resting upon him to show that his trial was essentially unfair in a constitutional sense."

Members of this Committee, when I argued this case before the Pardons Board I asked them not to listen to a single argument I made. I ask you not to. I asked them to listen to the utterances, the opinions and dissenting opinions, and I said to that Board, the Pardons Board, "How can anybody let a man die when so many Justices of the two highest courts in our land say he shall not die; he ought to get a new trial? This Board can't give him a new trial; but you don't let a man die when almost unanimously the court and even the majority opinion of both the Circuit and Supreme Courts practically say this is the case for the Pardons Board."

And I argued to that Pardons Board that Justice Horace Stern, in the Zietz case, went so far as to say that the argument that was made in that case was available for the Pardons Board. And as long as this Committee is interested in the question of the Pardons Board and legislation, I would like to call your attention to one other thing, if I may do so, and I say that under the laws of our Commonwealth, under the Constitution of Pennsylvania, the Pardons Board is a board that is supposed to render justice where, due to technicalities of the law, justice cannot be rendered.

Look in Corpus Juris, Volume 67, page 584, paragraph 15. It says: "Such pardoning power and the authority to commute sentences is a sovereign power inherent in the State. It is not judicial; but it is derogation of the law."

Then in American Jurisprudence, it says: "Granting of a pardon is an act of grace and humanity." So that in all cases where the law, due to technical provisions, has a man who has not had a fair trial, the Pardons Board is the only tribunal under which this circumstance can be rectified in this system of government as created by our founding fathers who framed the Constitution. I say to you that the reason I was unsuccessful in my opinion on May 26, 1950, was because the Pardons Board at that time had only had before it other facts, dealing with the life and the usual pleas that are made. But in 1956 this Pardons Board had before it such facts that in my opinion, the use of political influence would have been of no avail.

I say this, that I am as staunch a Republican as ever came down the street; but I must say, whether Governor Leader is a Democrat or not, that he and the Members of the Pardons Board were courageous when they didn't listen to the exhortations that were thrown at them daily, and the attempts to cajole them that were thrown at them daily by newspapers, with reference to the Darcy pardon before the Darcy case was heard. I think that is just as inherently wrong as it is to use political influence, not agreeing that there was any political influence used in this case. They were badgered in the newspapers, but they weren't cowards. They were courageous people. And if ever a man, in my opinion, was a courageous man in the face of all the criticism which was hurled at him—and I disagree with him on all the things he did politically, and I wouldn't vote for him if he ran for office again, never would vote for him—that was Governor Leader.

Q Is that all in the record now?

A Yes, I must admit that I am glad I got it off my chest.

Q Is there anything else you want to say, Mr. Witkin?

A Yes, but I think I have taken advantage of you already.

Q Just one other question. I don't know if I asked you or not; I was so engrossed in your speech—

A Pardon me. You did ask me one thing, but go ahead; I will remember it.

Q Did you contact any Members of the Board of Pardons previous to arguing the case?

A Oh, definitely not. I may say to you, Mr. Kohn—

Q All right. I think you did say that.

A I have been arguing cases before the Board of Pardons since I became a lawyer, and I must say that I carefully select the cases. I never interviewed any Member of any Pardons Board prior to my standing up in front of that Board and arguing my case. It is a record that I am proud of, and any Member of the Pardons Board will so tell you.

I would like to ask permission, if I may, to incorporate by reference only the brief that was filed in this case, the brief of the applicant in support of the application for clemency, and I will leave a copy here with you.

Q We have a copy.

A All right, I think there also should be incorporated by reference, if I may do so without becoming presumptious, the opinion of the Supreme Court, of Justice Burton, the dissenting opinions of Justices Harlan, Douglas, and Frankfurter, and likewise the opinion of Justice Hastings, and the minority opinion and the dissenting opinion of Justice Kalodner and Justice Pace.

CHAIRMAN TOMPKINS: I think they are in the record.

ATTORNEY GENERAL McBRIDE: I don't think that they are.

CHAIRMAN TOMPKINS: Well, if they are not, very well.

ATTORNEY GENERAL McBRIDE: Out of an abundance of caution, I think we ought to receive them.

THE WITNESS: I will upply them to you.

BY MR. KOHN:

Q Attorney General Cohen appeared before the Supreme Court of the United States as a party to this case, the Darcy case.

A That's right.

Q And he took a legal position opposing your position and Mr. Margiotti's position; I mean he opposed everything that you propounded?

A Yes, that's right. And, Mr. Kohn, you bring out something that I think is vital to this Board to consider. There was no conflict of interest there.

Q I didn't say there was.

A Yes, I know; but you infer that he did, and that, unexplained, leaves a void.

When the Attorney General of Pennsylvania was arguing the constitutional questions involved in this case, the present Justice of the Supreme Court, he believed conscientiously and honestly that within the narrow confines of the constitutional sense, David Darcy got a fair trial, and he had a right and his duty—

Q Did you talk to him about it?

A No, I didn't.

Q How can you say what was in his mind?

A Because it must have been when he did it.

Q I didn't ask you what was in his mind.

A Yes, but I say this. When the Attorney General, in his capacity as Attorney General, proceeds to uphold a conviction based upon constitutional grounds, that shows what a big man he was, because when he stepped out of that role and then came into the role as a Member of the Board of Pardons, where the power is in derogation of the common law, and he then became a Board of Pardons Justice to see to it that even though the technicalities of the law required this conviction to be upheld, then he sat as a Member of the Pardons Board, not as Attorney General; and, therefore, there was no conflict of interest there.

Q Therefore, you say there is no conflict of interest in obtaining a decision which becomes the law of the land by a six-three vote and then going into the Pardons Board—I am not saying there is anything wrong with it; don't misunderstand me. I am merely pointing out for the sake of whatever it is worth to this Committee that there is a conflict as far as I am concerned, even though he has a right to do it. When he obtains a decision through his arguments to the Supreme Court of the United States, obtains that argument and obtains that decision, and then goes to the Board of Pardons and adopts the minority decision of the very court that he argued before and obtained a decision from, there must be a conflict of interest, because I don't see how a man could separate the two duties.

A Mr. Kohn, your statements, if I may very politely say so, that the Pardons Board adopted the minority decision is fallacious. The minority opinion stated he is entitled to a new trial. They did not adopt the minority opinion; they adopted the majority.

Statements coupled with the minority opinion, statements coupled with the fact that it was doubtful as to whether Darcy ever got a fair trial, that is what the Judges say, but you take the position that the Pardons Board, in granting this commutation, adopted the minority position. That is not so. The minority position stated that he ought to get a new trial and he shouldn't plead double jeopardy. They didn't adopt that. They adopted, under the law, where they say, "Here is a case where Justice decreased, even in a constitutional case." Some judges said yes and some said no. And by a scant vote in the Circuit Court of Appeals, one short, the yeses outnumbering the noes by that number—and that is my interpretation of the granting of a commutation, not to let a man die. After he is dead, it is too late.

They never adopted a minority report, and I don't think that Mr. Cohen was in a position that involved conflict of interests at all. I don't think I have argued a case in the thirty-nine years I have been at the Bar that had more merit for commutation. This man didn't get a fair trail, and I will say further—you asked me if I had anything further to say—

Q Please don't argue the case.

ATTORNEY GENERAL McBRIDE: Why don't you let the witness speak?

MR. KOHN: Because he is not saying anything in response to a question.

THE WITNESS: You asked me. Mr. Kohn, about the conflict of interests. I say this to you seriously, honestly and conscientiously from the depths of my heart. In my judgment, the real basic trouble in the Darcy case was in Bucks County, when they tried him. They could have sent him to the electric chair with a fair trial, with a proper severance, taking their time. But no, they couldn't

wait. One judge wasn't enough; they had to have two. They couldn't give him a couple weeks severance between the first and second trials. Had they not done that, there would never have been eight years of litigation, and perhaps Darcy might have gone or might not have gone—God only knows—to the electric chair.

I say the basic, fundamental trouble in our administration of the criminal law is rushing people to trial and not giving them a fair trial, and then complaining because they take advantage of their rights.

I am going to close with this one statement. In 1931, and I have the date here, there was no greater foe of the criminal than I was. I want to say that I was practicing criminal law in those days. No more vitriolic denunciation of a criminal could ever have been made—and I say to this Board that I had no conflict of interests then; I was representing criminals—but when I spoke to the Legislature in an effort to get the bill which was later known as the Witkin Firearms Act passed, I said, "This bill is aimed at and directed solely at the criminal, solely at the bandit, solely at the citizen who wants to break the law." That was one of the few bills that was ever defeated in both Houses of the Legislature in the same Session that it became a law. I am not going to interpose that any more.

Q How is that relevant to the Darcy case?

A Not at all, but I just want to show you about the conflict of interests.

BY CHAIRMAN TOMPKINS:

Q. Mr. Witkin, I would like to ask a question.

A Yes.

Q I believe that the question of competency of counsel arose in this matter, did it not?

A Yes, it did.

Q And that counsel, I believe, that they referred to was Mr. Achey, who had tried the case

A That's right, sir.

Q And Mr. Achey did not raise any of these questions during the time of the trial, did he?

A Yes. He objected, Mr. Tompkins, as I recall, to the alleged or the direct handling of a note by Judge Boyer to the District Attorney in the case, and thereafter, Judge Boyer left the bench.

Now my recollection, Mr. Chairman, is that he did do that. My recollection is rather definite on that, and that Judge Boyer incident was of sufficient weight that Justice Harlan, in his opinion, spoke about it as being the thing that might have tipped the scales of justice.

Q Mr. Witkin, I don't believe Mr. Achey made any objection to that. I think his objection was to Judge Boyer being on the bench one day, when they were discussing the quetion of the introduction of certain evidence. No question came up, but I think Mr. Achey's objection was to the Judge's presence there.

A You may be absolutely right, because I am only giving you my best recollection. I didn't go into the facts of the case thoroughly because the facts were quite plain. Anybody knew what the facts were. But the question of whether a lawyer did or didn't, in my opinion, makes no difference.

Forget my opinion, I am not asking you to take my opinion; but what the judges said made a difference.

Q What I am getting at, Mr. Witkin, is this. There was no request for change of venue, none of these other things that the Supreme and Circuit Courts made mention of. None of that was raised, although later they raised the question of competency of counsel in not putting the defendant on the stand, and a number of other issues.

Were you present here yesterday to hear what Mr. McBride said in connection with that matter?

A I didn't hear what Mr. McBride said at all. I am sorry I was not here. But I would say this, that I don't know whether you are talking about—well, I don't know what Mr. McBride said, except from what I read in the newspapers. I must admit I read anything he said, but I don't know if they are printing everything he said on that.

In answering your question as to whether these questions were raised by counsel at the time of trial, the one point was raised, but in the opinions of the Court before the Pardons Board, the seven Judges of the District Court of Appeals said in no unmistakable language that it would have been well for counsel to have asked for a change of venue. There is no question about that. The seven Judges said that. There is no question about that; they said it. I don't think it was raised. I will answer your question categorically.

Q The substance of General McBride's statement yesterday was—and if I am wrong, General McBride, you correct me—that Mr. Achey called him and consulted him with reference to putting Darcy on the stand and a number of other proceedings in connection with the trial; that nowhere along the line was he ever called to testify in connection with those matters and in connection with the trial.

A Mr. Chairman, I would be glad to answer that question. When you speak of Darcy taking the stand, I am frank to say that had I been his lawyer, Darcy would not have taken the stand because the risk might have been too great; and therefore, when Mr. Achey did not put Darcy on the stand, I agreed one hundred per cent with Mr. McBride, because under the Act of 1947 it might have been a dangerous thing for him to do, having been involved in other crimes. That Act was declared unconstitutional, but Mr. Achey did not dare take that chance.

But may it please you, I thoroughly disagree with Mr. Achey's not having put into the record the history of the youth of Darcy; not having spoken of the fact that he was ill; that he had fallen in his youth. It was proved by hospital records that he struck his head against some facet or faucet or something; that he had insanity in the family; that there were many things pertaining to Darcy's early life.

In 1925, may it pleace the Chairman and the Members of this Board, I argued before the Legislature on the life and death bill that was before the Legislature in 1925; and that the purpose of changing the law so as to give the jury the choice of life or death was that where a man was patently guilty of murder in the first degree, it was to let the jury, by mitigating circumstances or his background or past reputation, change that sentence to life imprisonment, because theretofore, when they didn't want to do that, they just gave him murder in the second degree.

Q That, as you say, is a little off the mark from what

we are getting at; but none of the issues which you have stated here and none of the issues that were later raised by Mr. Achey or Mr. McBride at the time they took their appeal to the Supreme Court—they had twenty-six exceptions and none of those exceptions dealt with any of these matters that were subsequently brought up.

The General said yesterday with some surprise, I think, why he was never called at any time, anywhere as a witness in connection with this matter, as to the things which took place during the trial.

Would you know any reason why General McBride should not have been called in connection with those matters?

A Well, Mr. Chairman, it is difficult for me to pass upon why Mr. Margiotti hadn't called him. There was no necessity for my calling him because my limitations in this case were confined to the preparation originally and the argument before the commutation Board, the Pardons Board, for commutation originally and then again.

As I said, in the intermediate years, I had very little, if anything, to do with it except that Margiotti would send me copies of all the opinions. But the fact that certain things were not brought up by one lawyer, no matter how good he is—I think Mr. McBride is one of the best lawyers and one of the best in the State of Pennsylvania—maybe that will help Mr. Miller out with his story—but I say that we all make mistakes. I think Mr. Achey was an able lawyer, but I think he made a mistake in not putting any testimony on. What did he expect the jury to do? I think he should have asked for a change of venue. I think he did some of these things.

Q The thing I am trying to get at is this. I can't resolve in my mind, my own mind, after General McBride's statement where the man was not contacted, why he wasn't called upon to explain some of these matters. He left me with the impression that some of these things perhaps could have been cleared up very easily if that had been done.

A I can't answer that.

BY SENATOR YOSKO:

Q Mr. Witkin, I think, if my memory serves me correctly, you said that somebody had recommended you to argue the case for the Pardons Board because you would be the proper person to present that argument. Was that because of your ability as a lawyer or because of the fact that you were an active politician?

A I would say the statement that was made to me, and I am embarrassed saying it—it is pretty hard for me to say it—they said I was an able lawyer. I am not ready to concede that, but they said I was an able lawyer, that I had experience in arguing cases, that I prepared my cases, and that I could do justice to my case.

Pardon me for getting that in, but you asked the question and, in my modesty—some people don't think I have any—but I had to get that in.

I am afraid my political effect upon this Pardons Board would be nil. It was nil with the Republicans and I certainly think it would be nil with the Democrats.

Q Do you know of any political influence that was exerted on the previous Pardons Board or the present Pardons Board in connection with the action that was taken in granting this commutation for Mr. Darcy?

A I do not know of any such influence.

Q In your opinion, what I get then, is that the commutation was granted on the merits of the case?

A I would say, in my judgment, the commutation had to be granted on the merits, only on the merits of the case, and no case I have tried in thirty-nine years had more merit for commutation from death to life; nor was there any case that I have ever tried where a man was sentenced to a certain term and had it reduced, which case had more merit. You never sentence a man to the electric chair when so many brilliant judges of our State and Nation say there is a question. Even the present Chief Justice of the Supreme Court of Pennsylvania dissented in the case for the Supreme Court. Once you are dead, you are dead.

SENATOR YOSKO: That is all I have.

CROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Witkin, you have been questioned about your fee. I understand you received a little gift from Miss Ford, What was it?

A It was a lamp. It was a lamp that came from Bailey, Banks and Biddle, and it was scholarly—she apparently got the wrong opinion of me. She had a very scholarly lamp with sort of books and a so-called smart barrister, a learned barrister, on the lamp. It is a beautiful lamp, and as soon as we move to our new apartment, it is going to have a cherished place, because I think Marian Ford loved the boy as much as any mother loved a boy. She is just a fine person.

Q You have the little card with it that you kept?

A Yes.

Q Did you write her a letter?

A Yes, I did.

Q Have you a copy of it?

A Yes, I have a copy.

Q Did you mean what you said in it?

A Mr. McBride, I have the happy faculty of never saying anything I don't mean and never meaning anything I don't say; whether that is good or bad, I don't know.

Q The original of the letter was produced yesterday. I should like to have you read to the Committee the letter you wrote the day before Christmas, upon receipt of that gift, which I understand is the only material compensation you got from the case.

A I don't consider it compensation, but it is the only thing of value I got in connection with the case.

"Dear Miss Ford:

"I received your gift. It is just beautiful. Mrs. Witkin is crazy about it. However, as you and I both know, it was entirely unnecessary. Yet, I must frankly confess that I was deeply moved and touched by receiving it. It was most thoughtful of you, and I shall always remember it as coming from one of the finest characters I have ever known.

"Your devotion and steadfastness in the matter we had together I shall always remember and shall always remember and shall always feel that there are very, very few people in the world who, in a similar capacity, would have acted with the same love and devotion that generated from you. It was my pleasure

and privilege to be a part of it, and believe it or not, I feel satisfied for having been a participant.

"With my best wishes to you, I am

"Very sincerely —"

and I signed my name.

Q Mr. Witkin, do you and I have a deal on whereby you are to become a judge of the Court of Common Pleas Court No. 8?

A Well, I think I have been pushed so far out on a limb on that, that I am afraid I will get farther out. You and I never had any deal pertaining to a court.

In connection with that, I think my good friend who sits on my right here was mistaken in one phase of his story. I do not doubt his word that he got the tip on the story, or the scoop—I see where Dorothy Kilgallen made a mistake the other day, saying that Grace Kelley was going to have another baby—I do not doubt that he got that tip. But when he said in that story that Mr. Witkin has for years been ambitious to land a judgeship, that must have been an error, because Joe Miller knew that I never aspired in my whole life to be a judge. Whether I aspire at the ripe old age of sixty-two to be a judge now would be another question; but I am not going to say yes or no, because if I got a chance, I am not going to kick it out of the window. I am not going to make out that I don't want it. I will not say either way. I would take it, but I never aspired for years to be a judge. There may have been times in my life when I had an opportunity to be a judge, but I was too anxious to make money.

Q Was there any truth then to the story that you and I concocted some arrangement whereby you were to be appointed?

A It would have to have been done when you and I were not together, because you and I never concocted it.

BY SENATOR YOSKO:

Q Did you come here to testify upon any invitation from the Committee?

A I got an invitation. I didn't consider it an invitation; I considered it a mandatory request to come. You may consider it an invitation, but I didn't. I knew that if I didn't come, I would have been yanked in here.

Q Was any testimony you gave today given because you wanted to apprise this Board of the truth? Or was it given because of a promise that was made to you, as was indicated in the story in the Philadelphia Inquirer?

A My testimony that was given today—I think that all my political friends as well as my political enemies know that I always strive to tell the truth and to keep my word—it was given because I sincerely and honestly believe it. I am willing to sacrifice, if any member of this Committee, or any member of this Pardons Board so decrees, except for the present cases where I am now retained before this present Pardons Board, that I must necessarily argue, if there is any doubt about it, I am willing to forego trying another single, solitary case or taking one from my proposed clients in order that I will not be considered as having apple-polished this Board or put them in an embarrassing position. I feel deeply. I feel so deeply that if it were to cost me some $10,000 or $15,000 in fees during the next year, that any one of you tells me that I ought not to appear on the cases before the Pardons Board except on the cases I have previously retained, I will give it up. At the same time, I am no millionaire, but that is how I feel.

I am telling you honestly what I believe, whether it helps me or hurts me, whether it ruins my chances of becoming a judge or not. I would rather not become a judge than have that impression on the record. My testimony today was given through my own initiative, and as God is my witness, I honestly believe in what I have told you today; and I stand on my reputation as a Member of the Bar, and I hope that I have gained a half decent reputation.

Q This Committee is not here to deter, prevent, or restrain anyone from engaging in a legitimate law practice.

A I know that. I appreciate that.

CHAIRMAN TOMPKINS: All right.

(Witness excused.)

(Recessed).

AFTERNOON SESSION

(At 1:30 P. M. the Hearing resumed)

CHAIRMAN TOMPKINS: You may proceed, gentlemen.

MR. KOHN: Mr. Hean, will you take the stand, please?

ATTORNEY GENERAL McBRIDE: Well, it may please the—

MR. KOHN: Well, I am not ready to call—

ATTORNEY GENERAL McBRIDE: It doesn't matter whether you are ready or not, I am addressing the Chairman of the Committee.

Two subpoenas have been issued, Mr. Chairman.

CHAIRMAN TOMPKINS: General, we will take that up when we are ready.

ATTORNEY GENERAL McBRIDE: Just a moment, Mr. Chairman, I wish to have you hear this one short statement, and then I will stop. Two subpoenas were issued by the Committee calling for the appearance of witnesses at 1:30. It is now 1:30. I am prepared to explain in answer to that subpoena. If you want to hear it later, I don't care, but I think it should be heard now because the time for the appearance is now.

MR. KOHN: We subpoenaed witnesses for 1:30, but we are not ready to hear them.

ATTORNEY GENERAL McBRIDE: Whether or not you are ready, I think this should be heard now. I think this is the time for it.

CHAIRMAN TOMPKINS: When we are ready to call those witnesses, I think that is the time to bring the matter up.

REPRESENTATIVE LOPRESTI: Well, Mr. McBride, is there any particular reason why the Committee should give special preference to the witnesses?

ATTORNEY GENERAL McBRIDE: No, I am not asking that they be called. The witnesses are not appearing under my legal advice and I think now since the time for their appearance has arrived and the afternoon session has been called to order, in order that there be no misapprehension about the reason for their non-appearance, it should be stated fully and openly in public now.

CHAIRMAN TOMPKINS: The hour was fixed in the subpoena because that was the hour to which we had recessed, and we don't always call witnesses at the hour indicated in the subpoena in support of that. They are supposed to be here.

SENATOR YOSKO: Whom are we talking about?

ATTORNEY GENERAL McBRIDE: About two secretaries of the Governor of Pennsylvania.

REPRESENTATIVE BELL: Mr. Chairman, you made your ruling, let's proceed.

REPRESENTATIVE LOPRESTI: Of course, Mr. Chairman, I think that the Committee at least ought to have some knowledge of what is going on. I have no knowledge of what is going on.

SENATOR YOSKO: Neither do I.

REPRESENTATIVE BELL: Nor I.

CHAIRMAN TOMPKINS: When we call the witnesses to respond to their subpoena, in my opinion, that is the time to take up the issue.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I respectfully submit to you, certainly there is no harm done to anybody since the time for their appearance is now. The explanation, if any, should be given now.

CHAIRMAN TOMPKINS: Well—

ATTORNEY GENERAL McBRIDE: You don't want anybody to assume that they are in contempt for failure to appear. Is there anything wrong about having this matter placed of record now? I appeal to your sense of fairness.

REPRESENTATIVE BELL: Mr. McBride, let's realize that the Chairman is in charge of this hearing. Neither counsel for the Committee nor yourself are in charge. Now the Chairman made the ruling, and I say, let's proceed.

ATTORNEY GENERAL McBRIDE: Well, I am addressing my argument to the Chair with the attempt of convincing the Chair that we ought to do it now, in fairness.

SENATOR YOSKO: Mr. Chairman, as a member of this Committee, I still don't know what the controversy is and I would like you, as Chairman, or I would like our counsel, or Mr. McBride or somebody, to advise the Committee as a whole what this is all about.

CHAIRMAN TOMPKINS: You willl be advised when we are prepared to call the witnesses.

MR. KOHN: Mr. Hean, will you take the stand, please?

FRANK R. HEAN, recalled.

FURTHER RE-DIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Hean, I call your attention to your calendar book in the matter of David Darcy, No. 1, September Sessions, 1956. Is that your original docket, sir?

A That's correct.

Q And will you tell the Committee what the significance was, why you put on each calendar the following quotation: "Comment: A letter from Judge Bok dated 6/20/50, recommending leniency." What was your purpose in putting that on each calendar sheet of each member of the Board of Pardons?

A To answer your question completely, I had reviewed the files of previous hearings before the Board in the applications filed, and among them I found this letter of Judge Bok about six years old, and at the time that was significant. Judge Bok is a distinguished jurist, in my humble opinion, from Philadelphia; and also the letters with respect to the jury polling that were included, there were copies of those that I included.

Q You made no mention of any jury polling?

A No.

Q You wanted to call the attention of each member of this Board of Pardons to Judge Bok's letter, and Judge Bok did not have charge of the case?

A No, he was a Philadelphia jurist.

Q And the significance of the letter was that Judge Bok had interceded because Joseph Darcy, the father of David Darcy, was his tipstaff?

A Well, that would be one reason. The next reason would be that he was familiar with the Darcy family by reason of his acquaintanceship with his tipstaff.

Q Now, I ask you whether or not you made a statement on October 2, 1956, as follows:

> "Frank R. Hean, Secretary of the Board of Pardons, indicated a clemency recommendation for Darcy and his pals. Went to the Governor around 4:00 or 5:00 P. M., Saturday."

Did you make that statement?

A I may have said so.

Q Isn't it a fact that I have asked you what time you took it over and you said about 5:30?

A Well, the difference of half an hour or so is not too vital, in my reply.

Q I am asking you whether that might—

A That might have happened, Mr. Kohn.

Q And didn't you further say that he said, "However, he was under instructions not to reveal anything in connection with the Darcy case." Did you say that?

A I may have said that; I cannot deny that I did not, but I have no recollection of saying it.

Q Did you further go on to say, "I was ordered to keep my mouth shut, said Mr. Hean, and was told that the announcement would be made by the Board itself. I got my orders to say 'no comment' to all questions about the Darcy case." Did you say that?

A I probably did. I wouldn't deny that I did. However, Mr. Kohn, at that time the Darcy commutation, which had been announced by the Governor, was the matter of newspaper comment of a terrific type. If anyone said anything, it was magnified, twisted, glorified and diminished. And the best policy is, keep your big mouth shut. I did.

Q Would you tell us who gave those orders to you?

A Nobody gave me orders.

Q You said, "I was told?"

A I was told that because I used that as an excuse for not talking.

Q I see. Did you deliver the commutation and recommendation to the office of the Governor?

A Yes.

Q And to whom did you give it?

A Mr. Heagy.

Q And he has been in that office for many years and received those commutations?

A That's correct.

Q Do you know if the Governor was present in his office that afternoon?

A I wouldn't know because I did that on "E" floor, as it is called, and the Governor's office is on the second floor. I was not upstairs to know whether or not he was in his office.

Q Now this was a Saturday afternoon?

A Saturday afternoon.

Q And you usually work on Saturday afternoons?
A We do not.
MR. KOHN: That's all.
THE WITNESS: And the reason, if we did not properly process this commutation, is that Mr. Darcy was liable to have passed to his eternal reward.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, I have understood in your testimony heretofore that you are the one who usually resolves the different opinions of the Pardons Board and incorporates them into the reasons which are submitted to them for their signature, is that right?
A That is correct.
Q Now did you prepare reasons in this particular case?
A I did not.
Q Who did prepare them?
A It was handed to the Attorney General or rather this way; the Attorney General suggested that he would write them. Now whether he personally wrote them—I am thinking of Attorney General Cohen—whether he personally wrote them or someone on his staff did, I do not know, but he brought them into a meeting of the Board on a Thursday at—I just do not know the date. It was the last Thursday in September, and they were discussed and talked about and found to be satisfactory. They were handed to me to be typed up in our form reasons.
Q Now that was on a Thursday. Were there Pardons Board hearings that day?
A No, no, that was a special meeting for that purpose only.
Q I believe it was brought out here yesterday that there was a note in your book, or in somebody's book here, that there had been a decision made on this on the 20th of December.
A That is correct; that is what the minutes state, as Mr. Kohn has said. However, in writing up the minutes, we take the cases seriatim, one, two, three, four, five, six, and on down, and mark opposite whether they were recommended or refused. So, the significance of having a meeting on the twentieth, in which cases one, two and three, the Darcy cases having been marked as granted or recommended, was not important, other than it was in seriatim with all the other cases that we had under consideration.
Q Then the Board had decided on the twentieth that they would recommend?
A No, it was not decided. It was talked about on the twentieth; that is the first day of the September meeting. Then there was an interval of two, three days, I believe, wasn't it? What is the date on that?
MR. KOHN: Twenty-fifth.
THE WITNESS: And during that time the members of the Board took portions of the vast amount of opinions and paper books and the testimony to study in those three or four days between the next Executive Session.
The next Executive Session was held and then the discussion was more at length as to the feeling of the Board, after again reviewing the material they had in their possession in those three or four days.

BY CHAIRMAN TOMPKINS:

Q And they again decided to stick by their original recommendation of the twentieth?
A No, they did not make an original decision on the twentieth; they did not.
Q They discussed it?
A But not deeply. They each sort of expressed their viewpoints and let it go at that.
Q Now you say that you received these reasons from the Attorney General on Thursday, is that right?
A That would be the last Thursday of the month, whatever date that was.
Q That would be the 27th, would it not?
A Yes.
Q What time on Thursday did you get them?
A It is my recollection it was during the noon hour, Mr. Tompkins. They had an informal meeting during the noon hour.
Q An informal meeting during the noon hour?
A Yes.
Q These were handed to you after that time?
A They were. They were read and discussed and then handed to me.
Q In the final form?
A Yes.
Q On the recommendation sheet?
A No, it was an ordinary legal size sheet of paper upon which they were typed.
Q And then you were to transcribe those onto final form?
A That is correct.
Q When did you have those transcribed on the final form?
A We started it immediately on Thursday, right after lunch, and before the afternoon was over they were finished and taken over, as I recall, to the Attorney General's office, for his signature. He signed them. I am not too clear whether I went to Miss Blatt's office next, for her signature, or whether I went to Mr. Harner's office next, but either one signed them. Mr. Furman was out of the city and would not return until Saturday. The suggestion was that we get a messenger and an automobile and take it out where he was. I think he was in western Pennsylvania some where, and a telephone call was made, or someone informed me—probably someone in the office of Mr. Cohen or Mr. Furman, by Mrs. Cohen—that he would be surely here in town Saturday morning.
Notice was also given by telephone to Mr. Heagy on Thursday late, of the action of the Board, so that he would have knowledge of the decision.
Mr. Cohen came in Saturday—
CHAIRMAN TOMPKINS: You mean Mr. Furman?
THE WITNESS: Or Mr. Furman—on Saturday morning, and he signed the reasons. I delivered them to Mr. Heagy. Then I waited until—

BY CHAIRMAN TOMPKINS:

Q When did Mr. Furman sign them?
A Saturday morning. There were three other signatures prior thereto on the application.
Q Then Saturday morning all four signatures were on this commutation?
A Yes sir.
Q Why was it held up until 5:30 until it was delivered to the Governor's office?
A That was delivered to the Governor's office and from there to my office; I waited until I had notice.

Q When was it delivered to the Governor's office?
A I know when I gave it to Mr. Heagy, during Saturday morning.
Q What time?
A Between ten and eleven o'clock.
Q Between ten and eleven o'clock?
A Yes sir.

BY MR. KOHN:

Q Meaning what?
A The commutation, reasons, and the warrant of the commutation.
Q What did you deliver at 4:30 or 5:00?
A What did I deliver then? When the Governor signed it, I then had to get hold of Mr. Harner to attest these signatures as Secretary of the Commonwealth.
Q When did the Governor sign it?
A I cannot tell you because I don't know.
Q Was the Governor in his office that Saturday?
A I don't know.
Q Did he sign it some time between 11:00 and 5:30?
A He must have, because that was his signature on the instruments.
Q Do you know where he signed it?
A I do not. You see, I never was on the Governor's floor on that Saturday. I only went to Mr. Heagy, who is the usual officer I deal with in matters of this character, and he in turn would be able to tell you that.

BY CHAIRMAN TOMPKINS:

Q What time did you get Mr. Harner's signature on, as Secretary of the Commonwealth?
A Mr. Harner was very busy that day, but every hour he kept in touch with me to let me know where I could reach him by telephone. He was then campaigning—there happened to be a campaign on at that time—so that when I had notice that the Governor had signed it, I found Mr. Harner. He immediately came to his office.
Q What time did you get notice that the Governor had signed it?
A Oh, I would say it was in the middle of the afternoon, because after I had taken it to Mr. Harner for his signature as attesting officer, I had to take it over to another office to get the seal of the Commonwealth attached. From there I had to go upstairs and have the phototsate room take a photostat of the whole procedure, as the custom is, and then return the whole bundle to Mr. Heagy, and that would be after 5 o'clock, with the ordinary time delay.

BY MR. KOHN:

Q On these cases then, on September 20, on the Darcy, Zietz and Foster cases, they were actually held under advisement for further consideration?
A I wouldn't call it that; for study, because they were going to make a decision for the work of that September term.
Q How do you explain the fact that under September 25 there are quite a few cases marked, "held under advisement?" Why was this listed as having been commuted on the 20th?
A Because we take them in seriatim. If you will notice the minutes there, they are on through one to seventy, or whatever the number was.
Q Regardless of when they act on them, they still take them seriatim?
A Yes.
Q And that was the date of the hearings?
A Yes sir.
Q Now where cases are continued or held under advisement, you so mark them and then put them under the date that they are decided?
A The next month.
Q But you didn't do that in this case?
A This was not considered a held-under-advisement case.
Q Who makes up his mind about that?
A I do.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, do you know what hour of the day it was that the Governor signed this commutation?
A I honestly cannot tell you what hour of the day. I have only the feeling that it was early in the afternoon of that Saturday.
Q Well, there are newspaper reports to the effect that he signed it at Indiantown Gap, and after the time that he came home from a football game that afternoon.
A I read that account in the newspaper, as many of us did, and where they got this information I don't know, because I had no better information. I didn't know where he was. I didn't ask.
Q You don't know what hour of the day he signed?
A No, I don't know.
Q Or whether he signed it in here or at Indiantown Gap, or some other place?
A That is right.

BY MR. KOHN:

Q Nevertheless, the fact remains that you delivered them Saturday morning and he signed them some time in the afternoon?
A Yes sir.
MR. KOHN: Any other questions?
ATTORNEY GENERAL McBRIDE: No questions.
MR. KOHN: Mr. Evans.
JAMES WILLIAM EVANS, recalled

REDIRECT EXAMINATION

BY MR. KOHN:

Q You may state whether or not you served a subpoena on Richard Heagy, of the Governor's office, to appear here at 1:30 this afternoon to testify in this matter.
A I did, about twelve o'clock noon. I served the subpoena on him in Mr. Randall's office.
REPRESENTATIVE BELL: Will you speak a little louder, please?
THE WITNESS: I served the subpoena on Mr. Richard Heagy this noon, today at 12:00, in the office of Mr. Randall, to appear here at 1:30 this afternoon.
MR. KOHN: Any questions?
CHAIRMAN TOMPKINS: Is Mr. Randall here?
ATTORNEY GENERAL McBRIDE: Mr. Randall is not here, sir.

BY CHAIRMAN TOMPKINS:

Q Did you subpoena anybody else?
A No.
MR. KOHN: Mr. Arnold did.
Are there any questions?
CHAIRMAN TOMPKINS: Is Mr. Heagy in the room?
ATTORNEY GENERAL McBRIDE: Mr. Heagy is not here, sir.
MR. KOHN: Any questions?
(No response.)
CHAIRMAN TOMPKINS: All right, you may call Mr. Arnold, and then take them both together.
JAMES K. ARNOLD, recalled

REDIRECT EXAMINATION

BY MR. KOHN:

Q Did you make service of a subpoena upon David Randall, Secretary to the Governor?
A Yes sir, I did.
Q What time?
A Approximately 11:00 A. M. this morning, in Mr. Randall's office.
Q Is Mr. Randall here?
ATTORNEY GENERAL McBRIDE: Mr. Randall is not here, sir.
MR. KOHN: Any questions?
ATTORNEY GENERAL McBRIDE: No questions.

ATTORNEY GENERAL McBRIDE: Now, May I address the Committee?
CHAIRMAN TOMPKINS: You may, sir.
ATTORNEY GENERAL McBRIDE: May it please the Committee, the question was raised some time ago as to whether the Governor of Pennsylvania would respond to subpoena and whether he would respond to an invitation before the Committee to express his views. I told the Committee in Executive Session that I would advise the Governor not to appear either voluntarily or under subpoena.

Then request was made, in a letter from the Chairman of the Committee, to be advised by letter as to certain information. You will note that although the subpoena today has not yet been read into the record, the request is that Mr. Randall and Mr. Heagy appear and bring with them the following papers:

"All records showing receipt by the Governor's office of the date and time when the commutation recommendation for David Darcy, Harold Foster and Harry Zietz was delivered to the Governor's office, and the date, time and place it was signed by the Governor."

That is the information requested of the Governor's Secretary. That was requested in a letter, which I believe was dated March 12, 1957.

In response to that letter, the Secretary to the Governor immediately wrote a letter to Mr. Thompkins, as Chairman of the Committee, which I have just, through the courtesy of Mr. Kohn, been permitted to have for the purpose of reading to the Committee. It reads:

"Dear Mr. Tompkins:

"In reply to your letter of March 5, 1957, please be advised that I have transmitted to Attorney General Thomas D. McBride, information indicating the exact date, place and time at which the Governor's office received the recommendation of the Board of Pardons that the sentences of Darcy, Zietz and Foster be commutated, as well as similar information as to when these recommendations were returned, approved, to the Board of Pardons.

"Sincerely yours,

"David V. Randall"

And then I transmitted to the Chairman of the Committee the original of the matter spoken of therein which was sent to me by Mr. Randall, which reads as follows:

It is from the Secretary to the Governor, March 12, 1957, and to me as Attorney General.

"Dear Mr. McBride:

"Please be advised that the recommendations of the Board of Pardons that the death sentences of Darcy, Zietz and Foster be commutated to life imprisonment were received in the Governor's office, Harrisburg, shortly after noon on Saturday, September 29, 1956, and were returned, approved, to the Board of Pardons from the Governor's office at 6:00 P. M. on the same day.

"Sincerely yours,

"David V. Randall"

I transmitted that letter as I said.

Now the Committee has seen fit to require two men to be present to present the same information personally, and subpoenas have been served upon Mr. Randall and Mr. Heagy, both of whom are part of the Governor's Office itself and, as such, a part of the office of the Chief Executive of the Commonwealth of Pennsylvania.

I have, in accordance with law, and as I believe it to be, today after being notified by letter here this morning that these subpoenas had been served, prepared the following letter, which I have delivered to the Governor:

"Dear Governor:

The Joint Committee of the General Assembly has subpoenaed your Secretary, David V. Randall, and your Chief Clerk, Richard Heagy, to appear before it, to bring certain records and to answer certain questions as pertaining to action taken by you pursuant to your constitutional power to grant commutation of sentence. I advise you, your Secretary and your Chief Clerk not to appear before the Committee. This decision is based not on any criteria applicable to you or them personally, but on the fundamental separation of powers of our government, which vests in the office of the Governor the supreme executive power.

"By necessity, the exercise of this power is not subject to review or question by either the Legislature or the Judiciary, for if it were, the executive power would become subordinate to the other branches of government. No compromise with this principle should be permitted. It is your duty to maintain the high office of Governor undiminished by legislative encroachment, to pass it on to your successsor as it was passed on to you, in full possession of its rights and powers.

"Express recognition of this principle was given by our Supreme Court nearly eighty years ago in an appeal of Hartranft, 85 Pennsylvania, page 433. The court held that neither the Governor nor his subordinates are subject to the process of the courts when engaged in his official duties and that he is the sole judge of what those duties are and when they are to be performed.

"In addition, whether the Governor is to reveal any information coming to him was held to be a matter within his discretion. Such a broad and proper protection from process should not be lightly surrendered by voluntary action.

"Since no compelling reason exists which should lead you, your Secretary or Chief Clerk to appear before the Committee, neither you nor they should appear or produce any records."

I should like only to add that this is not a decision by George Leader as an individual. As an individual he might be perfectly willing to appear before this Committee and subject himself to your vigorous examination, but as Governor of Pennsylvania, there is inherent in him the duty of carrying on, as it has been carried on in the past, the full executive power of the Commonwealth, which has been protected by his predecessors and which it is his duty to protect for those who follow after him.

So, it is with the greatest deference and the most sincere respect that I say to this Committee, neither Mr. Randall nor Mr. Heagy, who are as close to the Governor as the fingers of his own hands, and who are part of his executive function, will appear before this Committee. In addition, they have submitted, and I have submitted, all the information sought by this subpoena.

REPRESENTATIVE BELL: I yield to the Chairman.

CHAIRMAN TOMPKINS: I quite agree with you that we have no right to review the action of the Executive, but I disagree with you that we don't have a right to call personnel in his office to review administrative acts that have nothing to do with the exercise of the executive discretion of power.

REPRESENTATIVE BELL: Mr. McBride, on the second page of your letter, I believe you made a statement that this right not to appear extends to the Governor's subordinates.

ATTORNEY GENERAL BcBRIDE: That was the holding of the Hartranft Appeal, Supreme Court of Pennsylvania.

REPRESENTATIVE BELL: What is the meaning of the word "subordinates"?

ATTORNEY GENERAL McBRIDE: It would extend at least to those closely connected with him in the exercise of the executive function. It would not extend to everybody under the executive power, obviously.

REPRESENTATIVE BELL: Would it extend to Members of his Cabinet?

ATTORNEY GENERAL McBRIDE: It is according to whether the action performed by the Member of the Cabinet is either directed by the Governor or was the joint action of the Governor and the Member of the Cabinet. It does not mean that merely because you are a member of the Cabinet that you are in all cases immune.

For instance, I myself have submitted here freely and fullly to questioning, but it certainly extends so far that what you are requesting here is to know when and where the Governor performed a certain discretionary act.

Now, that information has been given to you, and the decision of the Governor at that point must necessarily remain final, just as much as if I, as a part of the Executive arm of the Government, would subpoena for the witness or try to get forthwith a judge or a Member of the Legislature.

You yourselves must protect legislative power from encroachment by the Executive and by the Judiciary, and so must the Judiciary protect itself from encroachment either by the Legislative or the Executive. Unless they do, our whole theory of separation of governmental powers will fall into disrepute, and therefore, it is not a personal matter at all.

REPRESENTATIVE BELL: Now, you perhaps forestall my next question: Who is more personally closely associated with the Governor than his Attorney General, now as a matter of principle, when you have testified, and are you not now saying, that these men who work in the Governor's office cannot come in and testify as to the time when these items were received?

ATTORNEY GENERAL McBRIDE: When you say the Governor's office, the Executive office itself is involved.

REPRESENTATIVE BELL: Now the principle that you are expounding, to defend their absence—to excuse their absence, to put it more politely—that principle is not being applied when you take the stand.

ATTORNEY GENERAL McBRIDE: No, Mr. Bell, I must disagree with you. And, as a matter of fact, I thought in executive session you were heartily in accord with me on this proposition.

When I testified here as Attorney General, I did not mean to suggest that everything I do, as Attorney General, is beyond the scrutiny of the Legislature. I have never for a single moment contended that this Legislative body should not have a right to inquire into corruption, and so on, in the Board of Pardons. I would never go that far.

I do think it would be a terrible thing if the body which makes the laws has no right to inquire into whether or not the laws are enforced. And so I have never taken that position.

The only position that I take is that in the exercise of its discretion, the Board of Pardons could not be inquired into any more than you gentlemen could be interrogated as to your reasons for voting on a certain measure.

Now I am convinced, at least in my own mind, and if you will take the trouble to read Hartranft's Appeal, which I have cited, I think all of you will be equally convinced that the protection afforded to the Governor as Chief Executive extends also to those closely associated with him in an intimate matter such as this.

REPRESENTATIVE BELL: And that would be your interpretation of the word "subordinates"?

ATTORNEY GENERAL McBRIDE: That would include them. It might also include others, but I would never maintain, for a single instant, that because I was a Member of the Cabinet I thereby become immune from all questioning. I take no such position. I don't take the position that the Members of the Board of Pardons cannot be questioned as to corruption and so on, because I think they can, and they ought to be.

REPRESENTATIVE BELL: Thank you.

REPRESENTATIVE LOPRESTI: As a member of the minority of the Committee, Mr. Chairman, I want to state that we were not informed that such a subpoena was being issued, and having no knowledge of it, of course, did not concur in its being issued.

I agreed with the position as stated by Mr. McBride just a few moments ago; and had I had a chance to vote upon whether or not the subpoena should be issued, I would have opposed it for the very same reasons.

SENATOR YOSKO: Mr. Chairman, we did, in executive session, discuss the proposition of getting the Governor, or, as was indicated, his subordinates, to this hearing. And I think by a unanimous vote we decided that we would extend that invitation, not by subpoena, but by letter.

That letter was prepared and it was addressed to the Governor, but before it was mailed it was circulated among all the members of the Committee for approval. And when the final draft was approved, it was mailed to the Governor. Whether he responded to it, I don't know. But I join with Mr. Lopresti in saying that if a change in procedure was to be had, I think the Chairman should have called another meeting of the Committee and the subject should have been discussed. But aside from all that, I understand from what I have heard here there was certain information wanted relative to the time and place the commutation was delivered from the Board of Pardons to the Governor's office. And from the letter that the Attorney General has read here this morning, that information has been conveyed to us, and it is part of the record. For that reason, I see no further reasons for discussing the proposition, although I very much appreciate—and I am sure everybody else here appreciates—the lecture that was given to us on the subject because it has been very educational.

SENATOR FLEMING: Well, Mr. Chairman—

CHAIRMAN TOMPKINS: Just a moment. The letter addressed to the Governor telling him he was welcome to voluntarily appear here was not mailed. It was delivered personally to his office. We had no response to that. I don't recall that we ever discussed the question of the personnel in his office. We did discuss the question of the Governor, and I stated at that time, and I state now, that I agree with the Attorney General's position with reference to inquiring into the discretionary acts of the Governor. And as I previously said, I disagree with his position that we dare not inquire into mere administrative acts of personnel who are in his office.

I merely want to set the record straight as to that so that there can be no misunderstandings that the Chairman has gone off the deep end on any of this material.

SENATOR FLEMING: Mr. Chairman, I would thoroughly agree with Senator Yosko about the letters to the Governor, but I don't think, Senator, that we did include the personnel of the Governor's office in that letter. I am almost sure that we did not. I only say that to keep the record straight.

I think we are all in accord that the Governor should, out of courtesy to him as the Chief Executive, be accorded the opportunity, if he so desires, to appear here, and that is entirely at his discretion. But at no time did we make any mention at all of any of the clerical help in the Executive office.

SENATOR YOSKO: Senator, in reply to you, I interpreted our action in the broad sense. I construed it to mean not only the Governor but those who are closely associated with him. And I repeat that if there was to be a deviation from what we had agreed upon, the least the Chairman of the Committee could have done before the subpoenas were issued was to call a meeting and advise us so that we could discuss the problem further. And that is the only question I am raising.

REPRESENTATIVE BELL: Mr. Chairman, my recollection of the conversation is very clear, and it is as expressed by Senator Fleming. It pertained to the Governor alone.

REPRESENTATIVE LOPRESTI: That is correct, I believe. And if we want to recall the discussion, I think we will also have to say that the Attorney General at that moment advised the Committee that he would advise the Governor, in order to protect the office itself, not to appear before the Committee; and then our letter was written that we were not requesting him to be here but that if he himself wanted to be here, he was welcome.

REPRESENTATIVE BELL: That is correct.

CHAIRMAN TOMPKINS: And it applied only to the Governor, and not the staff.

ATTORNEY GENERAL McBRIDE: On the issue as to the subordinates—and while we are on the subject, may I, because I want you to have it clear, refer to the Hartranft's Appeal to give you an idea of what was involved there. It grew out of certain riots. There was an investigation by the Grand Jury, and the Grand Jury issued subpoenas to the Governor and certain other persons.

I would like to read an extract from the opinion showing who those other persons were and how far this immunity was extended in that case so as to cover not merely the Governor but any other subordinate or agents who acted under him in this particular aspect of the matter.

(Discussion off the record.)

CHAIRMAN TOMPKINS: All right, General McBride?

ATTORNEY GENERAL McBRIDE: Mr. Chairman, in order to show the broad coverage of this opinion in the Hartranft Appeal by the Supreme Court of Pennsylvania, I would like to read starting with page 443, as follows:

> "For the purpose of this case, however, we may admit the regularity of this subpoena and that upon an ordinary citizen it would have been binding and obligatory for we regard the question of the liability of the appellants to attachment, in any event, as the prime one of this case. In order to resolve this, we must first understand who the persons are against whom the Court has directed its attachment or for what purpose they have been subpoenaed. They are the Governor of Pennsylvania, the Secretary of the Commonwealth, the Adjutant-General, Chief Officers of the Executive Department of the State Government, and two officers of the National Guard, the latter subordinates acting under the orders of the former.
>
> "The purpose for which these officers are subpoenaed is that the Grand Jury may be put into possession of any information they may be possessed of or that may be within the power of their several departments concerning the military or other means used by them in the suppression of the late riots in the City of Pittsburgh.

"It will be observed that these persons are subpoenaed for the purpose of compelling a revelation of such things as come to their knowledge in their official capacities and which strictly belong to the several departments as officers of the Commonwealth, as is clearly set out in the answer by the Attorney General to the application for the attachment, and there has been no denial that that is so upon the argument before us.

"In order to simplify matters, we may treat this case just as though the process first and last were against the Governor alone, for if he is exempt from attachment because of his privilege his immunity protects his subordintes and agents."

And the Supreme Court of Pennsylvania quashed the attachment which had been issued by the lower court even as to the two officers of the National Guard of Pennsylvania and against all others, including the Governor.

Now I should like to say that I conceded once that the Committee was prefectly justified in issuing the subpoena. I contend, and I think the Committee counsel will probably agree, that the answer that the Attorney General makes to this body with respect and with deference, is also a correct answer, under the law.

Is that correct?

MR. KOHN: I do so concede, Mr. McBride, for that matter. I would like to say this, that that case is an 1877 case. I still think it is a law in force, and I think we had a right to issue the subpoena as the case holds. I also issued to the Committe a subpoena for Thomas K. Hodges, the former Press Secretary of the Governor, and that has not been served. And I imagine Mr. McBride would take the same position with respect to that.

ATTORNEY GENERAL McBRIDE: Yes, in respect of such an executive matter.

MR. KOHN: I must concur that that is the law of the land. I think that is their privilege.

CHAIRMAN TOMPKINS: Gentlemen, may we have those letters?

(Discussion off the record.)

CHAIRMAN TOMPKINS: Very well, these hearings will now recess until Monday, April 22, at ten o'clock a. m.

(Whereupon, at 2:40 p. m., the hearing was adjourned until 10:00 a. m., Monday, April 22, 1957.)

This is to certify that the proceedings and evidence are contained fully and accurately in the notes taken during the hearing before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same.

JOSEPH KIESLICH,
A. J. PLESCE,
PATRICIA L. SAYER.

Reported by:

Joseph Kieslich,
684 City Hall,
Philadelphia 7, Penna.

A. J. Plesce,
P. O. Box 582,
Harrisburg, Penna.

Patricia L. Sayer,
P. O. Box 496,
Harrisburg, Penna.

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

AT HARRISBURG, PENNSYLVANIA
DATE APRIL 22, 1957

VOLUME XIII

PATRICIA L. SAYER
1625 Green Street
Harrisburg, Penna.

CEdar 2-2832

INDEX

Witnesses	Direct	Cross	Redirect	Recross
Carl G. Conway	2342	2353	2370	
Arthur T. Prasse	2379	2391	2392	2394
			2411	2414
William L. Jacks	2420	2428		
Kenneth B. Taylor	2430	2439		
Henry E. Harner (Recalled)	2452			
Roy E. Furman (Recalled)	2454			
Frank R. Hean (Recalled)	2457			
David Kohn (Recalled)	2469			
James W. Evans (Recalled)	2487			

EXHIBIT

Board	Identified and Received
Exhibit No. 38—Four-page study	2430 2510

BEFORE THE

JOINT LEGISLATIVE COMMITTEE

TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a.m., Monday,

April 22, 1957

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

VICTOR H. WRIGHT, ESQUIRE, Deputy Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street,
For—Committee (Assisting Counsel).

JAMES K. ARNOLD, ESQUIRE, 2109 Market Street, Camp Hill, Pennsylvania
For—Committee (Assisting Counsel).

CHAIRMAN TOMPKINS: At the time of our recess the Attorney General had agreed to furnish the committee with certain information from the Governor's office. I wonder maybe if he has been able to get that information yet for us.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I did get the information but I did not bring it down here in writing this morning. Would it be sufficient if I have it this afternoon?

CHAIRMAN TOMPKINS: Just so the committee gets the information.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, with particular application to the Darcy case and because of the Darcy case generally applying to the relationship between the Board of Pardons and the courts, I should like without the necessity of calling any formal witness to briefly show the committee the relationship of the very recent case of Willie Green which is fresh in the minds of the Board of Pardons and I would like to read briefly from the Supreme Court's opinion. I think it throws a whole lot of light that the Committee will want to have on the relationship between the two, not only as it applies to the Darcy case but to the broader question that the Committee is going into; that is the relationship of the Board of Pardons itself to the courts and I would like to hand these copies to the committee.

The case of William S. Green was one which had been in the courts for a number of years and he had been in the courts for a number of years. There was an atrocious murder committed on South Street at the Standard Theater in Philadelphia, and William Green was sentenced to life imprisonment and had served twelve years. I will not go into any great detail except to say that finally the case came before the Supreme Court under the Act of 1903, which in homicide cases provides for a new trial granted after term time on after discovered evidence. The lower court refused it. There were various lie detector tests taken and certain documentary evidence produced and one of the witnesses in one aspect of the case recanted, and great doubt was thrown upon the guilt of the defendant who was then serving time sufficient that the District Attorney of Philadelphia County appeared in the Supreme Court of Pennsylvania urging that the new trial on after discovered evidence be granted.

Now I shall read from the opinion of the Supreme Court of Pennsylvania, holding its appellate review to be strictly limited and actually indicating that the proper place to go in such a case, even though all the judicial tribunals had held that there had been a fair trial and that due process of law had not been violated, was the Board of Pardons. The latest opinion of the Supreme Court of Pennsylvania is still in the advance reports and it is reported at 387 Pennsylvania, 515, and after reciting the contentions, the Supreme Court said at page 518:

"The essence of Appellant's petition is that he was convicted on perjured testimony of a crime for which he has served almost ten years. Under the Act of 1903, our Appellate review is severely limited. There is obviously another door open to the Appellant. If his further restraint is unjustified in the light of subsequent developments, he may ask the Board of Pardons to recommend that the Governor exercise his power to grant a pardon. The appeal is dismissed."

That is the majority opinion and then there was a dissent. The dissent says at page 533—

CHAIRMAN TOMPKINS: Who was the dissenter?

ATTORNEY GENERAL McBRIDE: Musmanno dissented, but the majority said what I have already read but both the majority and the dissenting Justices concur on this aspect of the case.

"This court, therefore, has already gone on record to the effect that if a man is convicted of murder and is then later proved innocent through the processes of a pardon, he must nevertheless bear the brand of Cain throughout the remaining journey of his life no matter how many witnesses recant, regardless of the unassailable proof of innocence presented to the Chief Executive of the Commonwealth and the Pardons Board and in spite of the language of a pardon which may completely exonerate and clear him of guilt. This court still insists that the once convicted but now guiltless free man must, so long as he lives, walk "as a fugitive and a wanderer on the earth!"

Now, therefore, despite the fact that he had exhausted all his purely legal remedies, he came before the Board of Pardons and the Board made a recommendation which the Governor approved and granted a pardon to William S. Green, an action which I think I am safe in saying has met with universal approval. The recommendation of the Board of Pardons points out what I would like to say.

It says:

"William S. Green was tried and convicted of Murder in the First Degree with punishment fixed at life imprisonment in April 1947. He is presently confined at the Eastern State Penitentiary. Persistent efforts on his behalf by his mother and several attorneys who had seriously doubted his guilt all these years have uncovered documented evidence which tends not only to cast doubt

on his guilt but even to establish his actual innocence of the crime.

"Petitions for a new trial have been presented to the court, but the Supreme Court of Pennsylvania felt that it had no jurisdiction to grant a new trial over the adverse finding of the lower court even though the District Attorney joined with counsel for Green in requesting a new trial. The Supreme Court suggested that the matter be brought before the Board of Pardons. At the hearing before the Board the District Attorney's Office not only did not oppose the application but joined in it. The evidence presented and the presentation both indicate that there is more than reasonable doubt as to William S. Green's guilt. They both apparently establish his actual innocence.

"This case is peculiarly one calling for action by the Board of Pardons. Here is presented a situation where our ordinary legal processes are impotent to rectify the wrong to Green and to require his immediate release. As the Supreme Court pointed out in noting that Green may go to this Board, its appellate review in these cases is 'severely limited.' Hence, the Board may and should be called upon to act, to go beyond the strict confines of law and to exercise its ultimate power to do justice and recommend executive clemency. The Board exists primarily to carry out this extra-legal and extra-judicial function, and no better case could be presented exemplifying the need for it to take action. In its absence no other tribunal could remedy the wrong done to Green; a vacuum would exist in which an innocent person would be confined without reason.

"William S. Green has languished in jail for over ten years. It is time that he be released. Accordingly the Board recommends that a full pardon be granted to Green and that he be released from the Eastern State Penitentiary."

We think, may it please the Board, that this is a case which highlights and brings into direct focus the contentions that this committee will be called upon to resolve.

SENATOR SCOTT: General, what does the Act of 1903 authorize the Supreme Court to do then? If it is limited in its scope and does not allow them to go this far, what does it acutally authorize the Court to do, take jurisdiction in what type of appeal?

ATTORNEY GENERAL McBRIDE. We are all familiar with the fact that under Pennsylvania law there can be no motion for a new trial made after term time and there is, however, a way of bringing up errors of fact as opposed to errors of law, known as the writ of error coram nobis. Now the Act of 1903 as far as homicide cases abolishes the writ of error coram nobis as held by the Supreme Court, and abolishes also the requirement that a motion for new trial be made in term time.

It indicates upon presentation of a petition, the lower court can get the approval of the Supreme Court to review by it, the lower court, of the evidence notwithstanding the expiration of the term for the purpose of determining whether the evidence, A, is after discovery and, B, whether that after discovered evidence is sufficient to warrant a new trial.

Now the lower court did get that permission, reviewed it and decided that it did not warrant it. Then the appeal was taken to the Supreme Court and the issue in this part of the Supreme Court's review of the Green case was limited to the question of whether or not there is actually an appeal at that point from the lower court and they held, the majority held, that the Supreme Court was powerless to act except on what would be called a certiorari, which went only to the jurisdiction of the court and since the court did have jurisdiction, their review was strictly limited but in making that decision, the important part to observe is that even though they had affirmed the conviction originally, even though the lower court had reaffirmed it by refusing to grant a new trial and all judicial remedies were at an end, the Supreme Court nevertheless pointed out that the way is still open, obviously as they said, with an appeal to the Board of Pardons.

CHAIRMAN TOMPKINS: May I see that sheet just a moment?

ATTORNEY GENERAL McBRIDE: Yes.

CHAIRMAN TOMPKINS: General, I would be interested to know—could you tell me who wrote this Reason for the Pardons Board?

ATTORNEY GENERAL McBRIDE: I did.

CHAIRMAN TOMPKINS: It sounds like good Attorney General language.

ATTORNEY GENERAL McBRIDE: I tried to make it so.

SENATOR SCOTT: And the Governor did grant a full pardon there?

ATTORNEY GENERAL McBRIDE: He did.

SENATOR SCOTT: There was no commutation of sentence?

ATTORNEY GENERAL McBRIDE: He and all of us were mindful of precisely the contradiction that you, Senator, pointed out; that where there is proof of innocence, there should be no trifling with it by granting a commutation. The man should be pardoned fully and that was done.

SENATOR SCOTT: Which I agree with one hundred per cent.

ATTORNEY GENERAL McBRIDE: I was not at liberty at that time to cite this case. I had it in my mind and the Board of Pardons had already decided the matter. I did not feel at liberty to call it to your attention publicly until the Governor, until the Reasons were written up and until the Governor had acted.

Major Conway.

CARL G. CONWAY, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Major, what is your occupation?

CHAIRMAN TOMPKINS: May we get his full name, General?

BY ATTORNEY GENERAL McBRIDE:

Q Will you give your full name for the record, please?

A Carl G. Conway—C-o-n-w-a-y.

Q What is your occupation?

A I am a Major of the Guard at the State Penitentiary at Rockview, Bellefonte.

Q How long have you been in the State service?

A Next year will be sixteen years.

Q And how long have you been at Rockview?

Q Sixteen years, all that time?

A Sixteen years.

A Yes.

Q And you have come up through the ranks so that you are now a Major?

A Yes sir.

Q At Rockview, what are your duties?

A To supervise the custodial staff of which there are probably 155 custodial officers.

Q Do you also have any supervisory jurisdiction over what is known as the death house?

A Yes sir, the custodial treatment of the inmate population at large.

Q Including that?

A Including the death house, yes sir.

Q Did you know Harold Foster, Harry Zietz and David Darcy?

A Yes sir.

Q Do you remember when they came in?

A Yes sir.

Q I do not think the committee will mind my prompting him as to the precise date, just to get it on the record; March 31, 1951 at 9:27 a. m.?

A Yes sir.

Q Were they immediately sent to the electrocution building?

A Yes sir, they were taken directly there.

Q And how long did they remain there?

A They were there until October—just a moment—until September 30, in the electrocution building. Then they were removed to the maximum security cell block until October 3, 1956, when they were returned to the Eastern State Penitentiary.

Q Now during the course of these hearings, there have been statements pro and con about the method of handling persons in the electrocution building. How long is the average person in that building?

A The time of arrival of these men is normally the time of arrival of any condemned man and up until recently, the date or the time of execution was 12:30, after midnight Sunday night or 12:30 Monday morning. They usually came in Saturday from early morning until noon or early afternoon, and would remain until Monday morning at 12:30 and the executions were scheduled as nearly after 12:30 a. m. Monday morning as possible.

Q So that they would remain less than forty-eight hours?

A That is correct, sir.

Q It would be less than forty-eight, wouldn't it?

A They came in Saturday morning and would remain until after 12:30 Monday morning.

Q Were there any others in your sixteen years that remained in the electrocution building as long as these men?

A No sir.

Q Now when they are brought in, are they placed in a cell?

A They are; the execution building room is on the second floor of what we call the Deputy Warden's Building. They are immediately taken into a receiving cell and there their clothes are removed, they are bathed, their heads are shaven and they are given a shave, and then we take some questions from them to fill in for our execution docket, such as their date of birth, where they were sentenced, how long they remained in county jails, their religion, service if any, in the Armed Forces and so forth.

Q Was the normal procedure followed in the case of these men?

A Yes sir.

Q Now they, however, were not electrocuted the following Monday morning or Monday evening?

A No sir.

Q And they remained in that building until October 1956, which would be about five and one-half years.

A September of 1956; then they were removed to a cell block.

Q Now while they were there, would you tell us the procedure as to lights on and off?

A There are no lights in the cells in which they are kept but there is a light on a standard that is turned toward the entrance of the cell. It hangs from above the doorway of the cell and it shows through the grill at all times.

Q At all times, at night and day?

A Yes sir, if the day is a particularly bright one, why sometimes it is not necessary to keep it on but normally night and day there is light.

Q It is never turned off at night, is it?

A No sir, there is a custodial officer in full view of the men at all times.

Q Were there any other men brought to that room to be executed during the time that they were there?

A Yes sir.

Q Could you tell us how many?

A At least seven.

Q And were they executed?

A Yes sir.

Q Did those men for the short period of time they were in that building occupy cells adjacent to these three?

A Yes sir.

Q Were they prepared for execution in the immediate vicinity of these men?

A Yes sir.

Q Were they taken from that room into the electrocution chamber?

A Yes sir.

Q Did they receive their last rites from the clergyman of their particular faith and the last visits of their families in that room?

A Yes sir.

Q Were these men in adjacent cells?

A That is correct, they were taken from the cells to receive visits but it would be in the same general room.

Q And how big is the room, about how many feet? I think you said there are eight cells. How wide are they?

A There are eight cells and approximately six feet each.

Q So the whole range of the cell is about forty-eight feet?

A Yes, but there is a wide corridor. When you would bring them out of the cells to have a visit, that, of

course, would be in the wide corridor forefronting on the cells, the front end of the cells.

Q During the time that these three were there, starting with March 31, 1951, did they receive exercise?

A The first exercise they received was on order of Secretary of Welfare Brown, on recommendation of the General Devers Committee, who were at Rockview either the latter part of February or the first part of March of 1953. Before that they did not receive exercise.

Q So that for two years they had no exercise at all?

A That is correct.

Q Were they able to talk to anybody out of the general prison population?

A No sir.

Q Were they able to talk to anybody at all?

A Well there was a custodial officer and they periodically had visits from their families which were regular visits.

Q Now were these men themselves prepared for death on any occasions?

A Yes sir.

Q How many?

A Well I am certain of one. The first time, the first week end they were there, and I would hesitate to say any further.

Q Were their heads ever shaved preparatory for execution?

A Yes sir, as each date when they were respited and the new date drew near, their heads were shaven. That was standard procedure.

Q How near?

A I would say if it were set for Sunday night, perhaps Tuesday or Wednesday of the week prior to that.

Q And about how often did that take place?

A Well I would hestitate to say that, depending upon the number of respites they had or the dates that they had.

Q Now I have a list. I do not think it would be important or material to read the names, but this list indicates that from April 23, 1951 to and including May 26, 1956 there were twenty executions.

A Yes sir.

Q Is that in accord with your own recollection?

A Yes sir, and the first seven, they remained in the execution building during the executions but the balance of them, after Commissioner Prasse became Commissioner of the Bureau of Corrections, they were removed to another cell block.

Q So that starting with the execution that took place on the 15th of March 1954, they were removed sometime before the execution?

A Yes sir.

Q How long before?

A I would say about 9:00 o'clock in the evening before, 9:30 or 10:00 o'clock.

Q With the execution to take place when?

A As nearly after 12:30 the next morning.

Q About three or four hours before they were removed?

A Yes.

Q Then after the execution they would be brought back?

A After everything had been cleared away, all the people had gone; of course, everything was back to as normal as it could be at that time of the night.

Q Your own duties in connection with executions were to gather the official witnesses and so forth and accompany them into the execution chamber?

A We prepare the warrants for the witnesses and the newspapermen and the sheriff to bring the body, and then the night of the execution or the night preceding we would—

MR. KOHN: Could you raise your voice a little? We can't hear you with your face turned.

THE WITNESS: Yes sir.

CHAIRMAN TOMPKINS: Just sit back and take it easy.

THE WITNESS: I am sorry. We would gather in the warden's office and receive the witnesses and the newspapermen there, and when the time arrived that we would go into the execution building I would escort the witnesses and the newspapermen into the Warden's Building where everybody would be registered and when that was finished, we would go up to the second floor and the execution would take place. Of course, there was a time for all of that.

BY ATTORNEY GENERAL McBRIDE:

Q Now during this period from March 31, 1951 up until September 30, 1956, do you know of any judicial proceedings or any procedings of any kind which were pending in the matter of Harold Foster and Harry Zietz?

A I do not believe I could answer that, although I seem to recollect that Zietz had filed for a commutation of sentence but I do not know that that was taken up in the courts.

Q Do you know whether it was after March 31, 1951?

A Yes sir, it seems to me that there was an attorney by the name of Kaminski, who came there sometime in the summer of 1956 and I was in on a visit with him and I seem to recall that he had Zietz sign some papers at that time.

Q What I meant really—I know that all of them had their cases taken up before the Board of Pardons in 1956, but until that happened before the Board of Pardons, was there anything pending in the courts that would prevent the execution of Harold Foster or Harry Zietz?

A Not to the best of my knowledge.

ATTORNEY GENERAL McBRIDE: That is all I have.

CROSS-EXAMINATION

BY MR. KOHN:

Q You say there was nothing in your files. Did you go over the files in this case?

A No sir.

Q You say there was nothing in there to prevent the execution of Zietz or Foster?

ATTORNEY GENERAL McBRIDE: There were no judicial proceedings.

MR. KOHN: I know your question. I am asking him what he knows.

BY MR. KOHN:

Q Do you know of anything in the file which would prevent the execution of Zietz or Foster? That is the question I asked, not judicial but otherwise.

A May I answer in my own way? When a date is set for an execution, up until the time another respite is issued we proceed as though there is going to be an execution.

Q Did you receive respites?

A Yes sir, the Warden's office would receive that.

Q That prevented their execution, didn't it?

A Yes sir.

Q And did you testify to all the facts that you testified to here before the Board of Pardons at any time?

A Did I?

Q Yes.

A No sir.

Q Do you know of anybody that did?

A No sir.

Q Do you know of any of these facts ever having come before the Board of Pardons at any time?

A No sir.

Q Were you asked to testify here today?

A Yes sir, the Commissioner—

Q Who went over your testimony with you?

A Nobody, sir.

Q You were just called in here and you testified. Nobody ever questioned you about what and no one went over the facts with you?

A No sir, what few facts I have I brought with me.

Q That is in your head, you mean? You brought the facts from your memory? You didn't bring any records along?

A I brought one sheet of paper, yes sir. In fact, several sheets of paper.

Q Where are they?

A Over at my chair.

Q Did you make notes of the case?

A I assumed that whenever I was informed that I should be here, that it would have something to do with how many executions there were and the fact that—

Q How many did you testify that you knew about?

A I answered General McBride's question that there were seven happened while the men were in the execution building.

Q How many altogether that you know of in the last six years?

A There had been twenty since they were at Rockview.

Q Were these men treated any different than any other men who were up for execution and given respites from time to time?

A Well we never had any that had that many respites before.

Q What I mean, were these men treated any different when they got respites from time to time for either judicial proceedings or stayed by the Governor? Were they treated any different?

A Yes sir.

Q They were?

A Yes sir.

Q Well how were they treated different?

A They were granted privileges that normally a condemned man does not get.

Q That is right. Who was that?

A Darcy, Foster and Zietz.

BY CHAIRMAN TOMPKINS:

Q I think that General McBride asked you a question—I don't recall that you answered it, you went into something else—as to what is the average length of stay in the death house?

A Normally a man will arrive the morning before the date of execution and the sentence is—

Q You are telling us that the average stay is only a matter of some several days, as over a week end?

A Yes, not even two full days.

Q Now you say you have been out there sixteen years?

A Yes sir.

Q What is the longest time that anybody has been in the death house in your sixteen years experience prior to the Zietz, Foster and Darcy cases?

A To the best of my recollection, about three months.

Q About three months?

A I would not want to state for certain but I seem to recall.

Q Do you know from the records what is the longest stay anybody was in the death house prior to these three since executions have taken place by means of the electric chair?

A Only from what I have heard. I have never checked the records but I have heard it said that I believe seventeen months.

Q I believe the warden, not the warden but one of your men—

A Deputy Warden Johnson.

Q Made that statement to me in your presence when I was up to Rockview some several months ago.

A That is right.

Q How heavy a light is that in that cell? What wattage or voltage?

A I would say forty. We have forty watt bulbs on all through the institution.

Q And there is no reason why they should be any different.

A I would not be able to answer that.

Q That would not be considered a glaring light, would it?

A I would not think so except that it is in a metal shade and all the light is focused toward—reflected toward the cell.

Q Do you know if this light ever disturbed their rest at night time? Do they ever make any complaints about this light disturbing their rest?

A At night time?

Q Yes.

A No sir, not to the best of my knowledge.

Q When the people came to visit up there, what would be the duration of the average visit, Mr. Conway?

A About an hour and a half.

Q About an hour and a half. And how often did these three men receive visitors?

A They varied; I believe probably Darcy received the most visits, with Zietz next and Foster the least.

Q What would be the average of Darcy's visits?

A Almost every two weeks, there would be exceptions probably but they were pretty regular visitors as well as Zietz's family.

Q Do your records or the notes that you made before you came down here show how many times the heads of these three men were shaved in preparation for execution?

A No sir, we have no record on that.

Q It runs in my—I don't know how correct I am, but in going through the records they indicate I believe that they had their heads shaved on three different occasions, at least that close to the execution.

Do you know how many reprieves there were in this case, Major?

A No.

Q I think there were twenty-three, were there not?

ATTORNEY GENERAL McBRIDE: Twenty-three of Darcy, twenty-nine of the other two.

BY CHAIRMAN TOMPKINS:

Q These men were not prepared twenty-three different times, were they, had their heads shaved twenty-three different times?

A No sir.

Q Now you speak of exercise for these men sometime in the beginning of 1953. What did that exercise consist of, Major?

A We would take them out of the building, under guard, of course, and let them walk around a compound that we had between cell blocks until an exercise yard was completed for them approximately in September, I would say the middle of September 1953. After that they were exercised daily, weather permitting, in that exercise yard which was probably an area, oh say, twenty by sixty feet, something like that.

Q What would be the duration of that exercise?

A About an hour to an hour and a half, depending upon the weather.

Q What would it consist of, Major?

A They played games of their own. We permitted them a baseball bat and a baseball, and they would take turns pitching and batting and fielding. That was about it.

Q And that was a daily occurrence excepting for weather conditions?

A Inclement weather and week ends we did not have sufficient personnel to do it.

Q How did these men generally behave while they were up there?

A Generally they behaved pretty well.

Q Were you acquainted with the report which Warden Baldy made I believe in the fall of 1954 or 1955?

A Yes sir.

Q Do you know what his report stated?

A I do not know everything that it stated, no sir, but I have read the report.

Q You don't happen to have a copy of that report with you do you?

A No sir.

BY SENATOR YOSKO:

Q Just as a matter of information, why are the executions set for 12:30?

A That has been changed, too. It is now 9:00 o'clock on Monday night.

Q Why is it 9:00 o'clock?

A They have to arrive at a time. The sentence reads the week beginning Monday and in prior times, it was as soon after Monday as possible and it is the Warden's prerogative, I believe.

CHAIRMAN TOMPKINS: That is an arbitrary rule, it is not?

ATTORNEY GENERAL McBRIDE: In any humane State when a man is about to die, the Governor and probably the Attorney General stand ready with an open wire in case anything happens at the last minute that warrants a respite. We are reminded of the case in California just some time ago where the Governor instead of being at the Executive Mansion, happened to be out on a ship and tried desperately, so he says, to get into the prison chamber and was a minute or two late.

Now when the executions take place as they had been after midnight, it was thought to be a decent thing—that is when the order is to execute during that week—instead of keeping a man on the anxious bench prepared for the execution and delaying it until Tuesday or Wednesday, they used to do it immediately after midnight but it was thought also that it would be better if it were fixed for 9:00 o'clock Monday night and so those whose duty it was to stand by, prepared to issue a last minute respite should there come to the attention of the authorities anything that warranted it, then they would all be available. I think all the Governors of Pennsylvania have remained in their offices for an hour or two at least, and possibly more, before every execution took place.

BY SENATOR YOSKO:

Q Mr. Conway, you said that Mr. Zietz and Mr. Foster and Mr. Darcy were prepared for execution at least one time, is that right?

A One that I am positive of.

Q And on that one occasion, did I understand you to say that the newspapermen and the witnesses and all that sort of thing were assembled in the execution chamber?

A No sir, they were in the Warden's office which is outside the stockade fence.

Q And how much time elapsed between the hour set for the execution and the time you were notified or somebody was notified that a reprieve was granted?

A That first week end?

Q Yes.

A As I recollect, it was about 11:30 when the Deputy United States Marshal arrived with a respite. Now there could have been phone calls prior to that; I do not know that but where I was—

Q Eleven-thirty at night?

A Yes sir.

Q And the execution was set for around 12:30?

A Twelve-thirty.

Q Who issued the reprieve?

A I do not know.

Q What year was that in?

A That was in 1951.

Q You do not know of any other times that these three prisoners were prepared for execution?

A I seem to recollect that one respite was from early Monday morning until the latter part of the week, maybe Wednesday or Thursday, but I cannot tell you the date but I seem to have recollection of that.

Q Well then how much time elapsed, if you know, between the time set for the execution and the time the next reprieve was granted?

A I do not know that.

Q Would your records show that?

A Yes sir, all those records are all here somewhere. We sent them all down.

ATTORNEY GENERAL McBRIDE: I believe Mr. Kohn has them all here.

MR. KOHN: They are up in the Pardons Board file.

BY SENATOR YOSKO:

Q That would be two occasions then that you are familiar with?

A Yes sir.

Q Were there any others?

A Not to the best of my recollection. I wouldn't like to say "no" or "yes."

Q Then on two occasions at least they were prepared for execution?

A Yes sir, the one I am positive of. The other I assume they were.

Q You are not positive of the others?

A I am assuming that they were, but I do not know how soon the respite came after the scheduled—the temporary respite before the respite came setting another date. I do not know that. That would be in the records but I do not know.

Q You said that their conduct was pretty good.

A Generally I said.

Q Well what do you mean by pretty good?

A Well after confinement and such close confinement for that many years, naturally once in a while they would act up, not viciously, nothing like that, but they would become dissatisfied, liked more privileges and so forth, but that would seem to me in all those years a pretty normal reaction.

Q What affect did you notice on either or all of the prisoners after the first reprieve was granted?

A Well naturally they were overjoyed when they received the information the first time and I cannot say what reaction occurred in them after that, but at the time they gave thanks to God and one fell on the floor and that was the only time that I recall any emotional show of their reaction.

Q You say he fell on the floor. Just what do you mean by that?

A Well the one boy dropped on the floor and cried and gave thanks to God and got back up on his feet.

BY CHAIRMAN TOMPKINS:

Q You mean he kneeled or prostrated?

A Yes, he just went on his knees and hung onto the grille in front and cried. That was the first week end.

BY SENATOR YOSKO:

Q What change if any did you notice in the mental attitude of either or all the prisoners from the time they were admitted to the death house until they got their commutation?

A Well I am, of course, not qualified to speak for that but I was amazed that they held up as well as they did after that many years under such close confinement. They improved after we took them out for exercise. When they got outdoors and were able to be in the weather and got some sun, their physical appearance improved. I cannot speak for their mental condition.

Q Are they at Rockview now?

A No sir, they were taken away from there on October 3, 1956.

Q You said, too, or I heard Mr. Kohn ask you a question about special privileges.

A Yes sir.

Q What special privileges did they get?

A Well normally a condemned man only has a Bible, crucifix, rosary or something of a religious nature in his cell with him. After they were there a number of months or perhaps a couple of years, we permitted magazines, fiction books, paper and pencil and so forth.

BY CHAIRMAN TOMPKINS:

Q Radio?

A And radio, yes sir, not in the cell but out in the corridor.

Q You had the control of it on the outside?

A Yes sir.

BY SENATOR YOSKO:

Q The first set of rules you were talking about or restrictions, they applied to the prisoner who comes in seventy-two or forty-eight hours before execution?

A That is right, usually he is not concerned with anything else because a chaplain takes up most of his time in the normal procedure where they only remain forty-eight hours.

Q And they were subjected to the same rules in the beginning?

A Yes sir.

Q You said there were I think two other prisoners there that were there for a period of—one was for a period of three months I guess.

A The one I know of for three months and the other I heard in the presence of Mr. Tompkins was there seventeen months, but that was before I was there.

Q The prisoner that was there for three months, did the strict rules that you talk about apply—the prayer book?

A At that time, that was quite some time ago and I was very often up in the execution room, but I was not in charge at that time. I could not say that.

BY REPRESENTATIVE BELL:

Q Major Conway, what type of cells are persons sentenced to solitary confinement placed in? What do you class that type of cell?

A That is our prison cell. You mean the court sentences to that?

Q No, what I mean is that if a man receives I believe you call it separate solitary confinement sentence, is he put in a special type of cell?

A No sir, when they come to Rockview they go in the general population.

Q Do you have cells where men are confined by themselves at Rockview?

A We have disciplinary cells, punishment cells for infraction of the rules. The cell is alike except they are restricted as to privileges and so on.

Q Now at Rockview are men in separate cells?

A Yes sir.

Q And are those cells lighted at night?

A The lights go out at eleven o'clock.

REPRESENTATIVE BELL: That is all.

BY CHAIRMAN TOMPKINS:

Q That is the corridor light and everything else?
A I beg your pardon.
Q Corridor lights and everything else?
A No, just the cell lights.
Q Just the cell lights.
A Cell lights.

REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Major, separate and solitary confinenment as it used to be known years and years ago is now reserved only for punishment cases, isn't it?

A Yes, and all our punishment cells are in a line.

Q Yet even those are not a true "separate solitary confinement"?

A That is right.

Q Now when it was brought out that these men got special privileges that was because of the humane attitude of the prison officials?

A Yes sir.

Q It was not the result of any special influence or anything like that?

A No, it was no order. It was within the prison itself. The Warden and Deputy Warden decided they should have privileges in order to occupy their time.

Q It was considered good prison discipline?

A It was certainly to our advantage to keep them in the best of health and best of spirits since we had them.

ATTORNEY GENERAL McBRIDE: That is all.

SENATOR FLEMING: Major, I wanted to ask you two questions if I could. Sometime during this hearing it was brought about that some of the inmates in various penitentiaries are given to believe by the grapevine that there were certain attorneys and only certain attorneys that could plead their case correctly before the Pardons Board. Assuming that that is right, then the committee and I came to some kind of an agreement and I believe General McBride—I think I am correct in this, sir—that you agreed word would go out to the prisons that that was not to be the practice. I mean that that did not mean anything, is that correct?

ATTORNEY GENERAL McBRIDE: I certainly do agree with that.

BY SENATOR FLEMING:

Q Well now my question to you, Major, would that have any effect on the inmates? Would they still think there were certain types of attorneys that you should go to?

A I think that is an individual like or dislike. There are many inmates in there that have faith in a certain few attorneys and none in others.

Q Yes, believe me I am not trying to trap you into any type of an answer at all. Isn't the feeling prevalent that there are certain types of certain attorneys that might have influence with a Republican Board and other attorneys that might have influence with a Democratic Board?

A I imagine the inmate population feels that, yes sir,

Q Is there anything we could do to quell that in their minds, to put that out of their minds? That is what I am trying to get at.

A I doubt that.

BY CHAIRMAN TOMPKINS:

Q Are there any attorneys as far as your experience is concerned that are considered to be prison lawyers?

A No sir, but if I may say so there are several inmates that act as prison attorneys in the prison and try to get the other inmates to file writs or attempts to file writs and so forth. They will argue their case for them out of court.

MR. KOHN: In fact, there are some prisoners up there who issue writs of habeas corpus.

ATTORNEY GENERAL McBRIDE: There are prisoners up there who prepare writs of habeas corpus and sell them to other prisoners.

THE WITNESS: We do not permit that in our place. The chaplain takes care—

ATTORNEY GENERAL McBRIDE: Wasn't one of the demands of the prisoners during the riot that they get law books, a whole set of Purdon's so they could prepare cases?

THE WITNESS: That is right. We still permit them to prepare writs but—

MR. KOHN: But you haven't furnished them with the law books?

THE WITNESS. And those prison attorneys are all in there, too. They are not all out on the street

BY CHAIRMAN TOMPKINS:

Q Do those prison attorneys tend to adjudicate that stuff?

A A certain percentage of the population, a small percentage of the population.

Q Is that some basis for unrest sometimes among them?

A Well very often a man who returns to prison several times is something of an attorney himself he thinks. He is always looking for a legal technicality by which he can beat the sentence.

Q Well what is the position of the Warden in connection with that kind of practice?

A Well we frown on it if he is caught, but we wouldn't let him go around holding sessions, advising inmate groups or bodies, but naturally we do not know about most of the sessions.

Q These three men were up there at the time of the riot at Rockview, were they not?

A Yes sir.

Q Did the riot reach the section where they were?

A Well they probably could hear the noise but they did not make any. They, of course, were interested in what was going on but they did not—

Q They did not participate?

A They did not give vent to their emotions at the time, no sir.

BY SENATOR FLEMING:

Q Major, I would presume through the newspapers the inmates would know about this investigating committee.

A Oh, yes sir, we permit them—

Q Has it had any type of affect on the prisoners involved, either good or bad?

A Not to the best of my knowledge, no sir. I have heard of no incident.

BY SENATOR YOSKO:

Q Major, was the conduct of either or all of the three, Zietz, Foster and Darcy, such that required punishment during the time they were there?

A No sir, most of the infractions, should I say, they were guilty of was they bathed regularly and we put ar normal amoutn of water in the tub. Sometimes they would ask for the tub filled and that would irritate them, and I think at times they objected to not receiving more than one portion of food, one serving, and they would complain a little about that or perhaps we use compartmental plates and I imagine the juice from one vegetable could run over into the other, carried the distance it was carried, prepared in the kitchen and carried over to the execution builling which I imagine is nearly 100 yards, I would say.

Q And did you say there were twenty executions during the period they were confined in the death house?

A Yes sir.

Q Was there any display of emotion by any of those electrocuted that was witnessed by either one of these three prisoners?

A No sir, we had six cells that we could use for condemned men and they would be removed to the last three cells the day before or perhaps early the day that the new ones would arrive, and they could not actually see them. We had a screen between them but they could hear.

Q And did any of the prisoners that were being led from the death cell to the execution chamber, did they scream or yell?

A Not that the others could hear, no sir. There is not any screaming or yelling to the best of my knowledge; there has not been.

BY CHAIRMAN TOMPKINS:

Q Major, this recreation pen that was built for these three boys, during the time that they used it or since, has it been used by any others?

A Yes sir, we use it for all punishment cases now. If they are confined for a very long period, they are given exercise according to the rules. We use it everyday.

Q How about the men in the death house or weren't they there long enough to use it?

A We have not had anybody since.

BY SENATOR YOSKO:

Q How far is it from the death cell to the death chamber?

A Well, as I said, there are eight cells approximately six feet wide, so that would be forty-eight feet. Then there is a corridor of possible ten feet; then there is an anteroom of maybe six feet and then you are in the chair room.

Q How long does it take to get from the death cell to the death chamber?

A During an execution?

Q In time, yes, a minute, half-miute?

A Not over a minute if they walk slow. The normal procedure is for the condemned man to follow his chaplain and they walk very slowly. Usually the chaplain is praying and very often the condemned man is following his prayer or repeating it.

Q And is there any kind of a noise when the switch is thrown?

A Yes, when they close the switches it makes a noise. I cannot describe the noise but it is two thousand volts and when you throw the switch, there is a noise. there is a sound.

ATTORNEY GENERAL McBRIDE: It dims the lights.

THE WITNESS. Very little.

BY SENATOR YOSKO:

Q Would anybody in the area of the death cell where these people are confined, would they know that the switch was thrown?

A I would think so. I am in there so I cannot speak for those outside.

Q You don't know then?

A I mean I definitely hear it. Of course, I can see it. Then there are rheostats that are turned up and down, and they have a tendency to make a little noise, too, but how far it can be heard, I cannot answer that.

Q What are they?

A Rheostats.

Q What is that?

A Well it is something that applies amperage, to the best of my knowledge. I am not an electrician either but I know that they close the two thousand volt line and then the amperage is turned on.

CHAIRMAN TOMPKINS: I believe that is all, Major.

ATTORNEY GENERAL McBRIDE. Thank you, Major.

BY CHAIRMAN TOMPKINS:

Q Just one more question I wanted to ask you. Did Darcy ever make any remarks in your presence that they would never burn?

A No sir.

ARTHUR T. PRASSE, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q What is your full name, Mr. Prassse?

A Arthur T. Prasse.

Q And what is your occcupation with the State government?

A I am Commissioner of Correction for all of the State penitentiaries.

Q How long have you been connected with the government of the State of Pennsylvania?

A Well off and on I have been fifteen years, twenty-two years with the State government and thirty years in prison work in State-aided institutions, ten years in State-aided institutions. The rest of the time was State institutions.

Q Now which Governor appointed you Commissioner of Correction?

A Governor Fine.

Q And Governor Leader continued you?

A That is right, sir.

Q At any time either under Republican or Democratic Administrations were you required to get any political sponsorship?

A I have never had any political sponsorship.

ATTORNEY GENERAL McBRIDE: Before he testifies, I would like to read the Devers Report, congratulating Governor Fine on Mr. Prasse's appointment and it says this:

"Your Excellency's choice of Commissioner or Correction is to be commended. During this short tenure in his new capacity the Commissioner has demonstrated a determination and ability to overcome obstacles with efficiency and expedition; he has exhibited insight into the needs of an effective peno-correctional system, and his leadership has been inspirational to the employees in the institutions under his jurisdiction."

This is the report of the Devers Committe.

CHAIRMAN TOMPKINS: I agreed with the report at that time and I still agree with it.

REPRESENTATIVE BELL: And I might add to it that he had a very fine record out at the George Junior Republic.

ATTORNEY GENERAL McBRIDE: Yes.

CHAIRMAN TOMPKINS: And at White Hill.

ATTORNEY GENERAL McBRIDE: Therefore, I think the committe and all of us would appreciate hearing from you, Commissioner, about the death house—not to dwell on it too long because we have heard it from Major Conway—your acquaintance with the Zietz, Foster and Darcy case and then I will put some other questions to you.

BY ATTORNEY GENERAL McBRIDE:

Q Are you familiar with these three men?

A Well I had seen them on two or three occasions. When I went up, I always talk to the prisoners in the death house when I am in the institution, and I had spoken to these three boys, asking them how they were and how they were getting along. One time one of them complained at little about a fissure that he might have and the doctor took him over into the hospital and performed an operation, and I think that one of the boys—I believe that was Zietz. He went to the hospital quite a number of times I think to have his eyes taken care of. He had a little trouble with this eyes.

Q Can you throw any light for the committee on the question of this practice of not giving them exercise and what, if anything, you did about it?

A Well they were not given any exercise until just after the Devers' Committee had suggested that they be taken out for exercise and I became Commissioner of Correction September 1, 1953. At that time they had taken them around. Major Conway has said that they had given them some exercise but there was a yard built just for these three men.

One of the things they did not do, and that was brought out in the other, but there was some procedure in the execution of men that was changed at my insistence and my direction. One of them was that they be taken from the death cell and taken across into one of the other buildings before an execution would take place, and not to be brought back until sufficient time had elapsed so that there would be no signs of the execution and I also directed that a screen be put up where none of the prisoners would know even when we had two or three executions; that the one man would not go through the torments of watching the other fellow make the trip to the electrocution chamber. I thought it was inhuman to keep people in there and knowing that probably their number would come up in the same way. I think from the psychological standpoint, I think it was hard on them. That was the reason that change was made.

The change in the hours was again at my direction and that used to be at 12:30 or after 12:30, but it necessitated holding a line open at that time and two or three people sitting over in the Governor's office here and any number of men who had to be called in for an execution—there are quite a number of people—and it went on until 2:00 or 3:00 o'clock in the morning before anything was settled and men would have to come back to work again at 6:00 o'clock and even those who spent time here at the Governor's office did not get home until 2:00 o'clock in the morning. So, the time was changed so that we would have it right after the boys were locked up and regardless of when an electrocution is taking place, there is a calm that comes over an institution. There is a sense that you can feel it when you go in there. It is not a pleasant thing, and we tried in every way to make it as humane as possible for everybody because it is something no one likes to do.

Q Is that the reason for the special privileges, such as reading magazines and things that these men, by reason of their long stay there, got which are not usually given to those who have a day or two stay?

A Well certainly with a man who was coming in there for his last twenty-four hours, he did not care to read a novel. He spent his time with the clergyman or the chaplain of his faith, and there was plenty there to be done. He was preparing himself for his last hours and it is different with boys that you have in the cell for a long period of time. They have to have something to—one of the boys I think was studying history and another one was taking up shorthand. Certainly that was the reason it was given to them. They are not privileges. I should say it is more program. Where they should have been was back in the population, because we have in the Commonwealth today about 478 lifers and they have a program and they have nothing more to look to than the Pardons Board; that they have hope and that hope comes from the Pardons Board. They know that if they follow the program that is layed out and if they have a change and they move along to become more useful, better citizens possibly, and by their conduct and by their application in the prisons, some day they have hopes that they will be returned to society.

Q Could you run a jail if those men did not have that hope?

A No, it is a part of the whole correctional program, rehabilitation. A man takes upon himself the duty to punish and, of course, he must take with that the duty or the responsibility to restore and without the Pardons Board or without the Parole Board, you have taken away from these men hope, all of the hope that they have. The prisons are a gift of the community and it is an asset to the community the same as your police officer is a gift of the community by the community; your courts, all of it is one in the whole process of law, your general hospitals, your mental hospitals, and we think that we are making, doing our part to try to rehabilitate and try to bring men

back to society after being with us and with that, and without this due process of law that includes probation and parole, the custody of course, education and training, hospitals and everything else that goes with it, I think one is as important as the other.

Q Are you a member of the National Association of Prison Wardens or whatever the name is?

A Yes, I am. I am an officer in that.

Q Do you know most of the wardens in the United States?

A I think I know all of them.

Q Are they generally in agreement with the views you expressed?

A That is generally so.

Q Do you have a program as to lifers, for instance, of moving the men who are trying to be rehabilitated from Western to Rockview?

A Yes, we do.

Q And is your whole effort concentrated upon the weeding out of the men as to whom you have reason to believe that they can be rehabilitated and others that you think have a less chance?

A We have hope for all men. Of course, some of them we realize, too, that their chances are not as good. They have not accepted and that ten per cent possibly never will be the kind of people we want them to be, that society wants them to be, but for the most part I would say most of these people can be reclaimed. We have a process, of course. It is not only a process of classification of the prisoners but it is the classification of the institutions and when these men fit the classifications or they are best suited or the program is suited to take care of the individual's needs, that is the institution he is sent to.

Q Now you have had experience both with the present Pardons Board and the preceding Pardons Board. Now without directing your attention to any particular one or attempting to make a distinction between them, do you find generally that they paid close attention to recommendations given by the prisons?

A I say that all of the Pardons Boards that I have had to deal with, of the individuals that have been elected or come into office, I have had no reason at any time to not respect and honor their integrity, and they have a job to do and whatever their decisions are, we have abided by them.

I say this, that although we have no suggestions or recommendations to make in capital cases—we have no suggestions to make there unless it be a life imprisonment—that we do examine and we do report on all of the prisoners to the Pardons Board and to the district attorneys and to the judges, so that they have the material that we have found and the material that we have or any examinations are for the courts and Pardons Board. We have even gone further. I think that we take a vote through our classification and our treatment clinic as to what they individually think that the person's chances are; whether he has made progress, whether they approve or whether they are for or against, and I would say that every Pardons Board—and there have been some changes in the Pardons Board—I would say they have treated us and treated our suggestions with all due regard.

Q Are you presently, in connection with the present Pardons Board, making recommendations for or against the granting of executive clemency?

A Yes, we do. We do from the clinic; from the treatment clinic we do that. The behavior of the man, his past record, his institutional record, all of that is brought out and those recommendations do go to the Pardons Board.

Q Now speaking generally, do you feel that those recommendations are given weight judging by the results of the cases? You know what recommendations you make and what results occur. Do you feel that they are paid no attention to or that they are given appropriate weight?

A I think that they are given appropriate weight and we have gone over our records here for the last several months and with very, very few exceptions I think that we would be looking at the problem and we would come up with about the same answer.

Q That is the staff and the Pardons Board?

A Staff and the Pardons Board, that is right.

Q Now have you had reports from those under your supervision who present cases before the Board of Pardons as to whether or not they are treated courteously, listened to and their recommendations in general accepted or refused?

A There again is another change that we have made since the Bureau of Correction has been started. There was a time when from the four penitentiaries, each of the institutions would have a representative come into the Capitol here and present these cases before the Pardons Board. Of course, the feeling then was that the boys in the east probably got more consideration because they had a better representative than the boys in the west. They probably felt that their representative was good but he was not getting fair and square treatment. So, it was decided then that we would have one man who was capable and one man who could present all of the cases before the Pardons Board unless the individual wanted to have an attorney of his own. So, we do have one man now that goes over all the cases and he sits down with the district attorney. That is something just new in Allegheny County, but we have been doing that in Philadelphia County. Their district attorney has gone to see the prisoners, so that all in all it is bringing the real problem of deciding whether or not a prisoner should have consideration—

Q Now to bring out one thing you said, for some years it is a fact, isn't it, that the district attorney or his representative in Philadelphia County actually goes to the penitentiary and if there is private counsel, he does it with his approval? If there is not private counsel, then he does it with the Bureau of Correction's approval and interviews the man himself who is making the application, talks to him?

A That is right, sir.

Q And forms his own impression as to what kind of a recommendation he, the district attorney, will make?

A That is right, sir, but you see the change since now that we have of transferring and we transfer prisoners right across this State. We have a man operating out of the Western Penitentiary and one out of Eastern, and it would be almost impossible, oh I would not say impossible, but improbable that they would send the district attorney from the Eastern Penitentiary over to the Western Penitentiary or from the Eastern district to the Western district to interview these men, so now we are undertaking to bring them up even with the prisoners who

were further away. Of course, that is the reason for this movement. Maybe, as I said, they may be moved out of Eastern up to Rockview simply because they are going out of a maximum security institution into a minimum security institution which would give a man a better opportunity to prove himself.

Q Now, Mr. Prasse, do you personally have any information or knowledge of any corruption or political influence exerted upon the Board of Pardons?

A I do not and if I had, I would definitely come out with it.

ATTORNEY GENERAL McBRIDE: Cross-examine.

CROSS-EXAMINATION

BY MR. KOHN:

Q Mr. Prasse, did you make any recommendations to the Board of Pardons in the Zietz, Darcy and Foster cases?

A No sir.

Q Recommendations in that type of case are not made by—

A We do not have anything to do with capital cases.

Q And after a man's sentence has been commuted from capital to life, then he is treated alike as far as his rehabilitation? His possibility of getting out is just as good as the other men, who were originally sentenced to life, isn't that right?

A That is right.

Q It is a question of his behavior?

A Yes.

Q And if the Bureau of Correction would consider that the man has been rehabilitated and after his sentence is changed from capital punishment to life, why he could be rehabilitated just as fast as any other prisoner?

A There is no question, yes sir.

ATTORNEY GENERAL McBRIDE: Could I ask one question on what Mr. Kohn brought up?

REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Prasse, on capital cases where a man is sentenced to death, prior to being put in the death house he isn't sent through the diagnostic and classification center? Is that the reason you have no recommendation?

A We have no recommendation to make because we are not to know the man. As I say, we usually get them just twenty-four hours before and we have very little on their record. However, today we have opened up the Eastern and Western Centers to take care of capital cases that may be held rather than keep them in some of the small counties, so we tried to help them by keeping them and to cut this terrific cost down, because it does necessitate twenty-four hours supervision.

Q That is merely custodial on those cases?

A Yes sir, we take them in and hold them because that runs into a lot of money when you have got to have men around the clock.

CHAIRMAN TOMPKINS: I think I was a cosponsor of that bill.

THE WITNESS: Yes sir.

BY ATTORNEY GENERAL McBRIDE:

Q When the commutation of Zietz, Foster and Darcy took place, then they were put through the diagnostic and classification center or at the time they were put into the prison population?

A When they received the commutation of sentence, they went then for the first time to the classification center and I think at this time Darcy is in Graterford and two of them I think are still at Eastern, but there was no reason that maybe Darcy—they are handled routinely; just a new prisoner as far as we are concerned.

Q But the reason you don't make the recommendation while they are in the death house is they have not gone through that process?

A We have no recommendations to make for men in the death house.

RECROSS-EXAMINATION

BY MR. KOHN:

Q Were you asked for a report by the Board of Pardons when this case was considered for commutation?

A No, we were not asked, sir.

REPRESENTATIVE BELL: Mr. Chairman—

CHAIRMAN TOMPKINS: Yes, Mr. Bell, go ahead.

BY REPRESENTATIVE BELL:

Q Mr. Prasse, if there was a feeling among the prison population that political influence could assist a person in obtaining a pardon or commutation, what affect if any would that have with your prison population?

A Well it would not be good. If there was any political implications whatsoever within your prison, you would by the grapevine—it is slow in some instances, but when it is slow that way it gets tighter I don't know, grapevines as a rule are usually fast but it does not mean anything; there is no truth to them, but prisoners watch and they watch every move that you make and they get a chance, they get to see the newspapers, they hear the radio and they are quick to put two and two together, so to speak, and whenever that would get into the prison, it is pretty hard to fight down. I could name instances and probably that would clarify it.

Q Well what specific detrimental affect would it have in the type of prison administration you are endeavoring to follow in Pennsylvania?

A Well when you set up a program and you say that you have to complete this program and then here is somebody who is going along with the program, who is totally opposed to anything that you ask him to do and he gets out, the rest say, "What are you trying to tell us? That's the end of that. Why should we go along and try to do when it does not make any difference, if you have the right people on your side?" So, that would wreck your program.

Q Now what affect in your prison program or discipline, whatever you may call it, would a feeling that if a man knew the right people he could get special hearings?

A Well it would upset the program again, as I say. We do not ever want the feeling to come into the prison that there are specials and when you get that and when you get prisoners—even with guards, when they think there is favoritism shown, it is one of the worst things we have. Favoritism cannot be shown.

Q You have to run a prison on impartiality.

A It is absolutely that way. If it is going to stand at all, it has got to be impartial treatment.

BY CHAIRMAN TOMPKINS:

Q Mr. Prasse, do you know of any attorneys in the State of Pennsylvania who tried to openly solicit Pardons Board business through the prisons?

A I cannot say that I know of any attorneys who openly solicit Pardons Board business. I think that the only thing that I would have would be to refer to the records and find out from there whether there were some attorneys or more attorneys soliciting Pardons Board of taking pardons cases. I think that the record will speak for it. I know of none.

Q There was some implication here by one of the prior witnesses here that he thought maybe one of the attorneys was openly soliciting business among the prisoners. Would that be possible, Commissioner?

A It could be and we have had such a case, but this was not in conjunction with pardons. This was in conjunction with parole plans and we occasionally have had difficulty along that line but I think they have been taken care of in the proper manner, and anytime we see it come up, that is the way it has been handled.

Q Now you speak about a man that you have that handles your over-all picture of your institutions before the Pardons Board rather than separate ones from each institution.

A Yes sir.

Q How are these proceedings instituted in the prison to get in this man's hands? Is it from your clinical report or just how?

A Well the prisoner may apply, he may apply when he has served so much time. We have no way of stopping him from doing that. That is his right. He may apply to the Pardons Board. However, we may sit down with the prisoner and explain to him that according to his record and according to the time, that it is premature or we might say that you just have not been the kind of a fellow and we could not do anymore than tell the truth. We will not perjure ourselves; we will only tell the story as it is.

Q You tell that to the prisoner?

A We tell that right to the prisoner. "Now if you want to, knowing what we have told you, you can apply."

Q You still do not deny him the right?

A No we cannot; we are not allowed to. So we let him apply and, of course, that is why I think that the calendar is so clogged. There are many, many of them. Of course, we have a lot of writ writers in the prison, too. You have seen some of them.

BY REPRESENTATIVE BELL:

Q What is that?

A Writ writers.

BY CHAIRMAN TOMPKINS:

Q Well then you send a report along with that from the prison authorities, of course?

A Yes sir.

Q Can you tell me—from your recollection, of course, it would have to be—is there much variation in the action of the Pardons Board from the recommendation of your prison authorities? In other words, do they deny a lot that you would recommend and recommend a number that perhaps you would be against?

A No, I would say we are pretty even. If anything, if I am recollecting here properly without my records, I think there are some that we would have recommended that they have denied.

Q And vice versa?

A Yes, but I would say if it is heavier one way or the other, I would say that our recommendations were even more lenient than their action.

Q How long has the system been in practice, Commissioner?

A Well that has been in practice ever since the Bureau of Correction has been formed, about 1953.

Q That being your experience over the time that your office has covered it.

A Yes sir.

Q Now, Commissioner, I am quite interested in the question as to—well let me ask this one other question here first. What is your experience in connection with the percentages of men who have been paroled in their being returned for violation of their parole?

A The percentages—now are you speaking on any particular type? Are you speaking of lifers now?

Q I am speaking of parolees generally now, Commissioner.

A Well I would have to, I think my Deputy is here and he is the Director of Treatment and he would have the exact—

ATTORNEY GENERAL McBRIDE: Could I say for the information of the committee that I have the statistician of the Parole Board who will give you that precise information in decimal points. We could call him as our very next witness.

CHAIRMAN TOMPKINS: Well I am interested in that information, General.

ATTORNEY GENERAL McBRIDE: Yes, I know and I am just saying that we have it.

CHAIRMAN TOMPKINS: All right, we will get exact information then.

BY CHAIRMAN TOMPKINS:

Q Now, Commissioner, there is one more question I want to ask you and that is on a second and third offender who comes to you, upon what basis do you determine that man's fitness for additional release into society before he serves his sentence that has been imposed?

A Well again, he cannot apply for parole until he has completed a certain amount of time. We give him credit or we give him credit for the time served, and considering his previous offenses and his readjustment while at the institution and that is done in every case. So, if a man has been there two or three times, certainly he is going to have a little longer time to do than the time in which he would ordinarily have gone out. The ones that perturb us more than any are those who reach their majority or maximum sentences.

Q You have no control over that?

A We have no control and even there we try to cover it. For instance, if a man is going out on a maximum sentence and we know he is not a good risk, the least we

can do is to get in touch with the court and the police officers and the community to which he is going, to let them know that he is there because in many cases they are going out and they are really bitter.

Q Now that is in case of parole?

A No, that is in case of release.

Q What about the case of clemency? What do you do in connection with clemency on second and third offenders? I have in mind now the very unfortunate occurrence that took place last week in the killing of this F.B.I. Agent, in which it is alleged the offense was committed by a parolee? Now how do men of that type get out?

A We have no power of release. As Commissioner of Correction, I have no powers of release in any instance. All we have is power of recommendation, so that anybody that is released from prison is released either through the Parole Board or through the courts, if it is a juvenile case, and we do have some through the judge of the committing court. So, all we do is recommend and, of course, the study is made by the Parole Board other than the maximum cases.

Q Suppose you have a third offender who is not going before the Parole Board but is going up before the Pardons Board for a commutation of his sentence, either minimum or maximum, upon what basis do you determine a recommendation to the Pardons Board that the man's sentence should be commuted?

A On the length of time that he has served, on whether or not he has served this time in a proper maner, on his progress, on his feeling and his attitude toward the people and society in general, on his ability to work and on his ability to take care of himself; all of these, the psychologists, the psychiatrists, all of them have a hand in knowing and in saying what they think about this individual. He is given a complete study.

Q Commissioner, was there any particular reason for the separation of Darcy, Zietz and Foster when they were taken from Rockview and placed in these other institutions?

A No, except that is the way we like to do that. If three people come in, we separate them as best we can simply if they come in on the same charge. Now it did not make any difference whether it was Darcy, Foster or who it might have been.

BY REPRESENTATIVE BELL:

Q Why weren't the other two separated that went to Rockview?

A They are still at Eastern. They may be separated, any of them. As I say, it is a matter of routine. We do not treat them, those three boys, any different than we would any other three boys who came in there; no special movements or anything else. It has to be routine. We dare not show partiality and we will not tolerate anybody showing that.

Q Well, Commissioner, entirely from a statistical standpoint now, do you get many men returned to prison for violation of parole without having committed another offense?

A Yes, we get quite a number back from, the recidivist, but they are technical violators and we are working—

Q They have done something contrary to the parole regulations?

A That is right.

Q They have not committed another offense?

A They have not been recommitted.

Q And who determines that?

A The parole agents and the Parole Board decides that.

BY SENATOR YOSKO:

Q Mr. Prasse, is was testified to here this morning that in the case of Zeitz, Foster and Darcy, after they had been in the death house for a period of time there was a small yard or enclosure constructed for them in which they played ball and took exercise, am I right in that?

A That is right.

Q Was that enclosure or little yard constructed because of any outside influence, political or otherwise, or was it a mater of procedure that emanated from the prison officials themselves?

A I would say it was from the prison officials themselves. The suggestion was made before I became Commissioner of Correction that they be exercised, and Secretary Brown at that time gave that order. From the first of September, any orders that were issued about those boys were issued by myself and I had absolutely—no one ever contacted me in any way about those three boys.

Q On the other privileges that they were given, such as reading of magazines and whatever they might have been that it was testified to here this morning, did any of those privileges result from any outside or political influence.

A They had my approval and I will assure you that no one ever spoke to me about these privileges. I was strictly doing it from a humane standpoint. Here are men who are incarcerated and have been in these cells all of this time, and certainly if they are going to call numbers back and play checkers, I could see no harm in that and I could see no harm in letting them study and I approved it, but certainly by no one's suggestion even. It was my own.

BY CHAIRMAN TOMPKINS:

Q The office of Commissioner of Correction was created at the time that the prison jurisdiction was transferred from Welfare to Justice. That is right, isn't it?

A That is right, sir; yes sir.

Q And Brown that you speak about was Secretary of Welfare prior to the time that Justice had jurisdiction over the institutions?

A That is right, sir.

BY REPRESENTATIVE BELL:

Q Mr. Prasse, I think that one fear in people's minds in Pennsylvania is that hardened criminals might possibly be coming out of the jail doors. Now I have been very interested in how you process a man before he comes up before the Pardons Board. Do you have any suggestions to this committee as to any legislative assistance that would assist the prison officials in filtering these men for release, because I think we are convinced that no one wants to turn a hardened criminal loose on civilization and if you had any suggestions whereby the Legislature and this inquiry could assist the prison officials, I think we would be interested in hearing that, sir.

A Well, sir, we have some legislation that we are going to ask for and Mr. Lawley is handling that.

I do not know any way that we can better the whole program by legislation. It is by activation and by doing the thing. There isn't anything wrong with the laws. It is the matter of enforcing the laws that comes and I think if we are honest and we are fair one to the other and we see these things and as we judge a prisoner, and certainly the people who live with the prisoners know better than anyone whether they have made any change for the better or for the worse, and I think that we people who live in the prisons would have it and have it understood that we will be firm but we will be fair and we will be kindly with the prisoners, but certainly not put back into society someone who we do not feel has profited by being in the institution.

Q Now your present setup, in your opinion, how does it compare with that found in other States as being effective to filter out the hardened criminal, in other words, so that he is not turned loose on society?

A Well, I can only say what other States have said about us, and they say that we—they are writing to us. We are sending materials, we are sending our record books and our forms to many of the States who have said that we are leading. We have taken our place again and Pennsylvania at one time was the leader and we have the finest—I would compare our people from our personnel or professional personnel right down to the least of the custodial officers, man for man and woman for woman, with any institution in the State or any other State. I think they are fine people and they are people of intergrity.

Q And would you also reassure the people of Pennsylvania that everything is being done to filter out the hardened criminal?

A Definitely, we do not want to ever turn out and certainly we will not turn anybody out or recommend anybody who would do other than that. We would let it be known that here goes a man who we do not believe should be in free society.

BY ATTORNEY GENERAL McBRIDE:

Q Do you feel on the whole that the Board of Pardons agrees with you on that?

A I think that they do.

BY CHAIRMAN TOMPKINS:

Q Commissioner, here is a practice—I do not know whether this is what Mr. Lawley is drawing up or not, but I made the recommendation myself here a few years ago from an experience I ran into where the Parole Board feels that a man has become rehabilitated to an extent that he should be released under supervision.

A Right sir.

Q The Parole Board makes that recommendation; he is granted that release but there is a detainer for him at the institution, where he is to be taken into another county to face a charge on a similar offense which occurred in the chain of events that happened in that one night. I am thinking now particularly of an event where boys will go out here and they will rob a half dozen service stations in three or four counties in one night.

Now the Parole Board thinks that boy is fit to be released; they so say and they release him. Then the detainer is here from the other county. He is taken to that other county. He is slapped back in jail in that other county. Should there not be some relief from that if the Parole Board thinks him fit to be released?

A Mr. Chairman, that is one of the bills that we are trying to put before the Legislature now. So that we can—

ATTORNEY GENERAL McBRIDE: I will add, I have approved it when Mr. Lawley brought it to me and I think the Chairman is introducing such legislation.

THE WITNESS: It is certainly a much needed piece of legislation and that is only one of several of them that could help us, because there again it can help us in the program of getting a man ready. For instance, we set up a program for a man in an institution and if there is a detainer hanging on him, it just does not make sense.

It is not fair to the prisoner, it is not even fair to society if it gets this man bitter. It is like having a boy finish four years of high school and when he comes to the day of graduation, and our prisoners have a program set up for the prisoners. We say, "You must follow this. You must go to school or you must complete such of your training in school. You must complete a trade and all along the line you must be the kind of a person we want you to be." And when he finishes that and we say, "Just a minute"—like the principal at high school would say. "Well back here in the eighth grade you were not so hot, so you will just have to do another year," and that is exactly the way the detainer works on a prisoner. He has completed his program, we have gotten a plan for him but somebody comes in and says, "Wait a minute, we have got a detainer on this fellow and now we are going to exercise that," so we put him back into the same institution and the program that he has completed for another two years.

ATTORNEY GENERAL McBRIDE: Is the rest of the committee familiar with what the proposed legislation is?

CHAIRMAN TOMPKINS: I think I am.

ATTORNEY GENERAL McBRIDE: I know the Chairman is. I can tell you briefly if you are interested.

BY REPRESENTATIVE BELL:

Q Well that same man could readily become a trouble maker and ruin other men who were on their way—

A It would take years to bring that man back to thinking as his fellowmen, as friends.

Q But his associates, he might have an adverse influence.

A Oh he certainly would have on them. He would be the first one and he would be a living example to those men in prison. "It does not make any difference. Don't let them talk to you about the program because it does not mean a damn thing. It does not mean a thing."

FURTHER REDIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Now, Commissioner, there are three quick questions I would like to get over. Is it true generally that lifers who are commuted from life imprisonment to life on parole have the very best record out in society?

A Yes, I would say that they are and in prison our lifers are probably the least troublesome of all the people.

Q And is it true also, secondly, that as between men

who are released at the expiration of their minimum term and those who are released by commutation of the minimum term, the latter group—that is the commuted group—has a less high rate of recidivism?

A I think that is, if I remember our statistics and we just looked that up recently, I think it is about six of one and a half dozen of the other. I do not see any difference between those that have been commuted and those who have been paroled. I think it is about even.

Q Well we have the statistics. I thought you were familiar with that.

A I think it is about even, General.

Q I think it turns out to be not that way, Commissioner, but we will get the exact figures from the statistician.

BY REPRESENTATIVE BELL:

Q Commissioner Prasse, you are of the opinion you should call the individual case because with statistics and figures, sometimes you have horrible examples that come out. For instance, lifers may be a good risk but when one of them bumps off an F. B. I. man, that is a horrible example.

A That is bad.

ATTORNEY GENERAL McBRIDE: I think this is correct, if the committee please. I think that there are only two men in the history of the Commonwealth of Pennsylvania who were paroled from life imprisonment who ever committed another homicide. Now I do not mean that they did not commit other crimes but they were killers who were paroled from life imprisonment. I personally have known of only two who ever committed another murder.

REPRESENTATIVE BELL: My point in following up, General, is that we do not want the mistaken impression to get out through the Commonwealth that anyone is favoring opening the doors to lifers because they are a good risk once they do get out.

ATTORNEY GENERAL McBRIDE: Oh no, I think it so happens that the lifers in many instances are aids in the actual running of the prison. They have been there so long, they help with advice to incoming prisoners and so forth, don't they, Commissioner?

THE WITNESS: Yes, definitely their influence is felt on the prisoners because of their long term of office. The older men, they understand they have the most to lose so, therefore, they would be more anxious to have the group go along so that it does not cause them any undue embarrassment. It might lengthen their time.

BY REPRESENTATIVE BELL:

Q Also, Commissioner, is it not true that for a lifer to get turned loose, he has to have a very fine record behind him?

A Excellent.

FURTHER RECROSS-EXAMINATION

BY MR. KOHN:

Q Mr. Prasse, I would like to ask you just a few questions that I think we have not covered which might be very interesting.

When a man has served his minimum, do you and the Parole Board cooperate in any way in regard to leaving that man out at the expiration of his minimum?

A Oh yes, we at the institution help the inmate plan for a home and a job and a sponsor. We make up his program, help him make up the program which again is submitted to the Board of Parole and they must approve it.

Q I mean between you and the Board of Parole, do you go back into his record, that is him minimum, to see whether or not he should be eligible for release at the end of his minimum?

Yes.

Q And it is possible that if you and the Parole Board agree that he has not served enough time and is not ready for rehabilitation, he may not be left out, is that correct?

A That is correct, sir.

Q All right, now you have the other situation where you have no jurisdiction over cases in which men are sentenced to county prisons and the Parole Board makes an investigation for the Board of Pardons. You have nothing to do with that, do you?

A Would you repeat that again, I—

Q Now when a man is sentenced to the Delaware County Prison for the length of twenty-three months or Dauphin County Prison for twenty-three months and he applies for a commutation of his minimum, as far as you are concerned, the Bureau of Correction has no interest in that case except through what the Board of Parole may do in investigating the facts of that particular case, is that right?

A Yes, that is right and, of course, if he is in a county prison we have nothing to do with the county prisons or city jails except the inspection thereof so we would be out of that entirely.

BY CHAIRMAN TOMPKINS:

Q You do not have jurisdiction over the Parole Board, do you?

A No, we do not.

Q The Parole Board has on occasion cooperated, however, with county judges in supervising some of the parolees, have they not?

A They do that; the Parole Board themselves do take care of the county prisoners after a certain period of time I mean.

Q Now, Commissioner, there is one other question I wanted to ask you before. Once you fellows get off the witness stand, we do not see you again and I would like to get your views on it. Information which has come to me indicates that a part of the difficulty particularly in the Western Penitentiary riots back in 1953 arose by reason of the fact that men who were considered by the Board fit for release were unable to be released because they could not get a sponsor. What is your view in connection with the mandatory requirement that a person have a sponsor before they are released?

In some cases it is excellent and some cases I think that it is not necessary. I think that the Parole Board today is working closer with the Bureau of Correction than I have ever known it.

Just two weeks ago we had the Parole Board, the complete Parole Board, and their superintendents in

my office with all of our staff, and we have agreed to eliminate these boys and they are a problem in prison, these boys who have had their time in and yet the program did not enable them to be released, so the Parole Board has designated their superintendent of that particular district to work in that prison with our parole men—that is the institution's parole man—to work on those cases that are being what they called held over and to expedite them as soon as possible. We are doing that right now.

Q Well, Commissioner, do you think legislation to give that discretionary power might be of help?

A I think it might be of help to give that power to you, meaning to the Parole Board. They have that power I think. They have that power. They do not need it. It is just a matter of administration where they require the sponsor.

Q Up to this point, it has been taken more or less that it was a mandatory provision of the law that they had to have a sponsor and I think you are well acquainted with the fact that there have been bills before the Legislature in the last several Sessions and there is one now before it to eliminate that mandatory provision for a sponsor.

A I think it was a provision, I am pretty sure it is just a provision of the Parole Board themselves that set that up. I think that they are free to release them without a sponsor. I am sure they are.

Q Should there be any question about the thing, do you think that that would be good legislation to give them that discretionary power?

A I think it should be.

ATTORNEY GENERAL McBRIDE: Now when we are on the subject of legislation, Commissioner, take up the next two hours, please, and tell them about your appropriations that they can do something by legislation about your appropriation.

THE WITNESS: I think they will be all right with it.

CHAIRMAN TOMPKINS: We are not the Appropriations Committee.

REPRESENTATIVE BELL: Before turning the Commissioner loose, Mr. Chairman, I have personal knowledge that he did a wonderful job in western Pennsylvania with the rehabilitation of young boys and in the George Junior Republic, and I think that it is wonderful we have a man of his caliber in our prison system.

THE WITNESS: Thank you, I certainly didn't expect anything like that in here this morning.

CHAIRMAN TOMPKINS: And his experience at White Hill, I want to second that remark.

We will recess until 1:30, and I would like to have a Committee Meeting in the committee room at 1:15, if I may please.

(At 12:30 p. m., the hearing was recessed until 1:30 p. m.)

* * *

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing on the above cause before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and that this copy is a correct transcript of the same.

PATRICIA L. SAYER

Reported by:

Miss Patricia L. Sayer
1625 Green Street
Harrisburg, Pennsylvania

AFTERNOON SESSION

CHAIRMAN TOMPKINS: This committee will come to order.

ATTORNEY GENERAL McBRIDE: Mr. Jacks, please?

WILLIAM L. JACKS, having been duly sworn, was examined and testified as follows

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q What is your full name?

A William L. Jacks.

Q J-a-c-k-s?

A Right.

Q And by whom are you employed?

A The Pennsylvania Board of Parole.

Q That is, of course, distinguished from the Pennsylvania Board of Pardons?

A Oh yes, it is an entirely different unit. The Pennsylvania Board of Parole is a legislative body.

Q And how long have you been so employed?

A A little over ten years.

Q And what is the title of your job?

A Statistician.

Q And what is the general nature of the work of a statistician?

A In the Board of Parole, to keep records, especially on all of the men who are released on parole, and the supervision of our district offices throughout the state and out of the state.

Q Now as the statistician, have you made any compilation that could be used here to show the relative rate of recidivism as between persons who have had their sentences commuted and those who have served their minimum sentences and been released upon parole?

A We can't break it down as fine perhaps as you want it, that is, limited to the minimum sentence, but we do have a clear-cut distinction between commutation cases and all of the rest of the parolees. Now what I mean by "all the rest" are those who are released at the minimum of the sentence, those who are released after being refused at the minimum sentence, and also those who are released upon re-parole as parole violators.

Q And also the commuted sentences?

A And the commuted sentences, yes.

ATTORNEY GENERAL McBRIDE: Now is that distinction clear to the Board? It is not just between the rate of recidivism in commuted cases versus non-commuted cases, but it is commuted cases versus all other kinds of cases on parole including re-parole, minimum sentence and commuted cases all lumped together.

BY ATTORNEY GENERAL McBRIDE:

Q Now, Mr. Jacks, will you tell us what kind of study you have?

A In the cases that were released by commutation in 1953—

MR. KOHN: Do you have a copy of that?

ATTORNEY GENERAL McBRIDE: I will give you one. They have just arrived this instant.

MR. KOHN: It is easier to follow. I would appreciate having a copy at this time.

(Copy handed to Mr. Kohn.)

BY ATTORNEY GENERAL McBRIDE:

Q I hand you the study covering 1953, 1954, 1955 and 1956.

A I hope you will excuse this delay. I had only my original figures, and then the Attorney General asked to have copies made so that we could distribute them so you could follow these different figures.

First of all, we will take the group released during 1953, because we are giving these men a fair chance on parole. Now these figures are checked as of the end of February 1957 so that these men will have a possibility of three and one-half years out under parole supervision.

The total number of cases was 203, and when this report was made out there were 133 of those men in good standing. One absconded from parole supervision. And with respect to the group not on parole, we had 33 that were returned to prison; 12 of them as parole violators and 21 because they had committed new crimes on parole. Twenty-three were granted final discharges; four were closed for commutation of maximum sentence; five of them died and four were pardoned.

Now if you want a comparison like was asked for this morning of Mr. Prasse, if we take all of the delinquent cases we find that 33 were returned to prison; one absconded from supervision, which makes a total of 34 delinquent, or 16.7 per cent we can regard as delinquent for 1953.

Q Now in that delinquency, does that include the parole violator without the commission of the new crime and also the man who commits the crime?

A Yes.

Q So that approximately one-sixth of the total number of commuted cases get back in jail for one reason or another?

A That is right.

Q Now for the year 1954?

A Do you want me to read all of these figures for 1954 as I did for 1953?

Q I think we could streamline it by later putting the figures in the record and just asking you the questions as to percentage for 1954, as I did for 1953.

Does that meet the committee's approval?

CHAIRMAN TOMPKINS. Yes.

BY ATTORNEY GENERAL McBRIDE:

Q All right now, what is the percentage of delinquent cases commuted for 1954, including both the technical parole violators and the new crime men?

A That would be 16.1 per cent.

Q As against 16.7 for the previous year.

A That is right.

Q Now what is the figure for the year 1955?

A For 1955 you must remember one thing, that these men had only been an parole a little over a year. Now, even though you have your highest rate of recidivism during the first year when about two-thirds are returned, we must take that into consideration here. These men haven't been out too long.

In 1955, 12.1 per cent were delinquent.

Q So that is 16.7 for 1953; 16.1 for 1954 and 12.1 for 1955, but with due allowance, the 1955 might be somewhat the same as the 16.1?

A That is right. At the end of perhaps another year on parole it might get up to that point, but I don't think beyond it.

Q For the year 1956 is there any real basis in this short space of time for using statistics?

A No. I hesitate to give anything for 1956 because some of these—well, nine of the men commuted in 1956, that is nine out of 79, are still in prison. They haven't gotten out yet. So the significant thing in 1956 is the small number of commutations granted. Where you had 203 in 1953, 299 in 1954, 140 in 1955, you only had 79 in 1956.

BY CHAIRMAN TOMPKINS:

Q Well, are these figures on commutation alone?

A That is one thing I'd better straighten out. These are Parole Board cases where the sentences are commuted and they are put under the supervision of the Board of Parole where the minimums are commuted.

Q That includes the commutations?

A Yes.

ATTORNEY GENERAL McBRIDE: But in fairness there would be some others like the commutation of maximum sentence granting pardons and other forms of executive clemency which would not be represented in your figures?

THE WITNESS: That's right. These are only men who have had their minimums commuted so that they could be released from prison to go on parole.

BY MR. KOHN:

Q Now let me get this straight. This doesn't include the actions by the Board of Pardons in commuting sentences?

A Oh yes, it does.

Q Are you just breaking down the number that was commuted by the Board of Pardons? The question that is in my mind is, was the number commuted by the Board of Pardons as to how they turned out and the number commuted by the Parole Board, not commuted, but left out on their minimums?

ATTORNEY GENERAL McBRIDE: We haven't gotten to that yet, Dave. All of these up to the present time are commutations by the Board of Pardons.

MR. KOHN: All right.

THE WITNESS: That is right, these are Pardons Board cases only.

BY ATTORNEY GENERAL McBRIDE:

Q We have a record of 16 per cent in two instances and twelve in the other. Let's assume it is all 16 per cent for purposes of discussion.

Now what is the rate of men who have served their minimum time and been released on parole as against the men who have been commuted by executive clemency?

A The statistics we have on that are based on a study made over a period of four years of all men released on

parole. Now remember that includes commutation cases, and we find that 28.4 per cent of all men released on parole were returned to prison.

Q So that if, in view of the fact that the commuted sentences had people with only 16 per cent, if you withdraw them from that total of 28 per cent, the 28 per cent would be even higher?

A That's right because they are included in that figure.

Q So that the rate of recidivists among the persons who have received executive clemency is something like about half the number of recidivists among those who have not received executive clemency?

A I would say that is about true. You have 16 per cent as compared to 28 per cent, yes.

BY CHAIRMAN TOMPKINS:

Q Does this include county prisoners?

A Yes, this is all the parolees that come under our jurisdiction. They must have sentences of two years or more.

Q Of two years or more?

A Yes.

ATTORNEY GENERAL McBRIDE: That is all.

CROSS EXAMINATION

BY MR. KOHN:

Q Isn't it a fact that the figures may not properly reflect the number of violators because it is within the discretion of the Parole Board as to whether or not they are going to cite a man for a violation?

A Well, yes, it would be—

Q Just answer the question if you understand it. If you don't I will repeat it.

A It is up to the Parole Board to decide whether or not a violation is serious enough for the man to be returned to prison. But that can happen to anyone. It isn't just limited to—

Q I am not arguing the question. I asked you a simple question; whether or not this does not reflect the cases in which there were violations and the Board decided they would not return them?

A That's right. These are actual returns to prison.

Q Do you know of cases where a man is on parole and is picked up for carrying concealed deadly weapons, convicted and sentenced, and the Board didn't consider it a violation?

A I don't know of any cases. And I wouldn't know of any cases.

Q Well, a case like that wouldn't come to your attention, would it?

A No, I am a statistician.

Q There can be many cases in the files of the Board where either tehnical violations or violations or conviction of another crime may occur but wouldn't come to your attention in compiling these statistics? Is that correct?

A Oh, that is true.

Q You are familiar with the case of Thaddeus John Skalski (S-k-a-l-s-k-i), which was before the Board on October 18, 1955, and he was convicted in Michigan of carrying concealed deadly weapons, and the Board refused to bring him back?

A No, I am not acquainted with that case at all.

Q That wouldn't be in your department?

A No, I would have nothing to do with that.

MR. KOHN: All right, that is all.

(Witness excused.)

CHAIRMAN TOMPKINS: Are you going to file with the committee a complete breakdown on that, General?

ATTORNEY GENERAL McBRIDE: I am going to pin these together now and put them in order and submit it as an exhibit.

Four-page study—produced and marked for identification Board of Pardons Exhibit No. 38. AJP 4/22/57

CHAIRMAN TOMPKINS: This exhibit will accompany the record instead of being incorporated as part of the testimony.

KENNETH B. TAYLOR, having been duly sworn, was examined and testified as follows on

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Doctor Taylor, what is your full name?

A Kenneth B. Taylor.

Q And what is your present position with the Commonwealth of Pennsylvania?

A I am the Deputy Commissioner for treatment in the Bureau of Corrections.

Q Did you have any specialized training prior to coming with the Commonwealth?

A Yes sir, I have a Ph.D. degree in Psychology.

Q And have you worked in the Western State Penitentiary?

A Yes sir, I have. I have had about twenty years' experience with the State now in the penitentiary setup.

Q Now in connection with your work there, have you been connected with the staff in making prison evaluations for possible applicants for executive clemency?

A Yes sir, that is part of my duties.

Q Now from the point of view of the Deputy Commissioner in charge of treatment, in view of your experience as a psychologist, will you briefly inform the committe as to the view that you have as to the part played by the Board of Pardons?

A Well, we feel that the Board of Pardons is a very necessary, let's say, part of this entire treatment program. When a man comes into the institution we try to get a general idea about how much time he is going to have to serve and then we set up a program that we feel he can complete in that period of time. At the present time we have almost—in fact, we have, over 7500 prisoners in our seven state-owned institutions and there are over 500 of those who have life sentences. That means that they have absolutely no way of ever being released except through executive clemency. We have a number of others—I do not have the figures—who have what we call rather lengthy sentences, forty to eighty years, sixty to one hundred twenty years, some of them eighty to one hundred and sixty. We know, of course, that in the normal life span they would not be eligible for parole. They will die before the minimum is completed. And we feel very strongly that it is almost impossible to set up a treatment program for these men if there isn't

somewhere that they would have hope of eventually being released. And we feel executive clemency will help us, not only us by the State and the taxpayers as a group in three ways:

First of all, there is not much use in setting up a program for a man to effect some type of rehabilitation if he is not eventually going to go back into society anyway.

Secondly, it is very difficult and would be very difficult to handle men in an institution if we took away from them all hope of eventually being released. And then, of course, you have the economic factor, which I don't think anybody has touched on today; that it costs roughly three dollars to three dollars and a half a day to keep these men in an institution, whereas on parole or probation, it is a mere fraction of that amount of money.

If these men are denied an opportunity to eventually be released it is going to mean adding to our present facilities, which is expensive, plus the three dollars or three and a half dollars per day to keep them. So the economic factor, even though we normally don't think of it in terms of that, is an important factor in so far as getting these men back into society again.

Q Doctor, being familiar with the way in which the staff operates and makes it recommendations, what comment, if any, do you have as to whether the Pardons Board disregards those recommendations or seems to follow them?

A Well, I would say that on the whole the Pardons Board very definitely takes into consideration the recommendations we make and perhaps in the last three or three and one-half years since the Bureau of Corrections has been started, there is even more of that taken into consideration.

Up until 1953, the latter part of 1953, some institutions did not give the Pardons Board very much information. They would come out and say we think this man should be commuted or we think he shouldn't and they got very little additional information.

But since the latter part of 1953, and we have had, of course, two different Boards since that time, both Boards have been working very closely with the institution. We not only make a recommendation but we give them a lot of supporting information as to the past background of this man and also the adjustment within the institution, plus some of the plans that the man has for the future when he is going to be released.

Q Now knowing that a man will sooner or later by expiration even of his maximum term be released and go back into society, is it the thought of the staff that there is an opportune time at which he should be released, that prior to that time might be too soon and subsequent to that might be too late?

A Yes sir, that is quite true. We frequently find out with these men there comes a time—and it is sort of a nebulous thing—it is very difficult in any one case, or a series of cases to say specifically that it would be five years or ten years or fifteen years. Unfortunately in sentencing these men our judges are more or less faced with that proposition. They'll say, "We'll give this man ten to twenty years hoping that at the expiration of ten he will be ready to be released into society again." But it doesn't always work that way. You may find one man who in five years would be ready to go out and without some type of executive clemency he couldn't be released.

On the other hand, you may find an individual who should stay fifteen years and of course the Parole Board can handle that angle because they may keep him longer than ten years.

We often think of it in terms of a physician sending a man to a hospital. It would be rather foolish for him to say here's a man who had some kind of heart coindition and he must stay in the hospital for eight months, here's a man with diabetes, he must stay in the hospital for two years and so on, when we know that after he went into the hospital when he reaches that point where he can safely go out again, he is released. In prison we don't have that, except through executive clemency; and when that man is ready we try to encourage him to ask for clemency.

I think perhaps we are a little more lenient than the Pardons Board is, but by and large we get together on many of these cases and come out very closely on the recommendations.

Q When the staff does recommend the release of a man who is sentenced to not less than ten nor more than twenty years; at the end of, let's say, six years, do you have the feeling that you are in any sense overruling the judge?

A No sir. We don't feel we are doing that because in every case the judge and the district attorney are furnished with the information that we give to the Pardons Board so that they have their opportunity to state to the Board their objections if any to this commutation, or they can also recommend if they want.

But we feel as long as they are being notified we certainly are not overruling them. In fact, very frequently judges will ask us for confirmation concerning these men even though they have not asked for commutation because some of their people will go to them and ask how the man is getting along and so on, and we will give them that information if they ask for it.

Q Now in this particular reference to the Foster, Zietz and Darcy cases, did there come a time in the program when you were asked as to the desirability or undesirability of their getting magazines or other privileges ordinarily denied to those who occupy the death cell only for a space of a day or two?

A Indirectly they had some of the privileges before the Bureau of Correction was started back in 1953. But on several occasions while I was at Rockview I talked with the men and the staff there has asked my opinion as to whether or not we should continue these special privileges, if you call them such, or whether we should discontinue them. We mainly operated on the basis that men are sent to prison as punishment and not for punishment; that the courts and society do not ask those of us who work in institutions to punish these people; that they were sent there as punishment for a crime they had committed and it is up to us to do everything possible to help these individuals while they are in the institution so that if and when the day comes that they can be released they will be better able to adjust to society.

Anybody who is incarcerated for a long period of time naturally has some reactions against it, and we know that it can become so severe that they have a mental break-

down. We call it a psychosis. It is not unusual to have people in prison have psychoses, and it is my feeling and I know it is the Commissioners feeling because we discussed it in those three cases, that we would much prefer to give them some privileges to help them keep their sanity than to punish them and then perhaps have a double drain on society should the time ever come when they would be commuted. We should then not only have a criminal on our hands but we would also have a psychotic and that would mean expensive medical treatment and so on following the time that they might get out.

And, of course, we run into legal complications, too, if a man becomes a psychotic in so far as electrocution is concerned.

Q Doctor, did you notice any change in these men, physically or mentally, either before the order came through that they should have exercise or after. Do you have any information that you can give the committee on that or as to their reaction to the whole program?

A I am really not in position to answer that very well because I did not know them before the exercise order had come through. I was still at the Western Penitentiary at the time, so I really couldn't answer that.

Q Now then, did you get to know them?

A Yes, I did.

Q Now, tell the committee if you can whether they improved in their mental, physical or spiritual outlook or whether they were retrograded or that there was no change, whatever the situation was?

A I would almost have to give some hearsay testimony there. They tell me that up until the time that—

MR. KOHN: Just a minute. If you will just answer the question, please?

THE WITNESS: As I say, I didn't know them before that order came out.

BY ATTORNEY GENERAL McBRIDE:

Q From the time you got to know until the last time you saw them?

A I would say definitely there was an improvement in their psysical condition, and I would judge also in their mental condition, judging from the fact that they were reading and studying, as the Commissioner pointed out this morning. One of them was taking shorthand; one of them was studying history. They were spending their time—well they weren't just wasting their time, let's say, in their cells out there.

ATTORNEY GENERAL McBRIDE: That is all.

CROSS EXAMINATION

BY MR. KOHN:

Q You say that you are now sending to the judge and district attorney information concerning prisoners in a psychiatric report regularly.

A No sir, I didn't say that. I said we were sending them reports when the man comes up for commutation.

Q When did you start that?

A Well, that has been going on about three years that I know of in some cases.

Q Who sent these out?

A That was sent out by the Board here.

Q Is that what you were told, that that was sent out—

A I think that's right, that it goes out from here, because some of the judges and district attorneys have asked information that they couldn't have gotten—

Q I am not saying it is not so. I say that is where you got your information. It was sent out by the Board.

A Yes.

Q And how many copies do you furnish them?

A We furnish them nine copies.

Q That goes with the application which is sent out?

A That's right

Q In regard to these parole violators that the Parole Board pulls back and puts back into prison, do you make a re-examination of those?

A Yes sir, we do.

Q Did you ever make a re-examination of—maybe you wouldn't know—Thaddeus John Skalski in 1956?

A If he came to one of our diagnostic centers, and he should have, we would have re-examined him.

Q And to whom would you furnish that report?

A That report—one copy would go to the Parole Board and another copy would go to the county in which he was sentenced originally, and the rest of the copies would remain in the institution. Now, should he ever file for commutation, then it would also go to the Pardons Board.

Q Now, this last question that Mr. McBride asked you in relation to these three men, that was an unusual situation where a man's sentence was commuted from capital punishment to life imprisonment?

A I understand that since 1915 there have been about between 80 and 85 cases like that.

Q And you say their condition of happiness and other things that you describe isn't unusual when a person has had his sentence commuted?

A No sir.

Q I mean you were not describing anything unusual, were you?

A No sir. I have only seen two other cases.

Q Were you there in 1953?

A Yes sir, I was there in 1953.

MR. KOHN: That is all.

BY CHAIRMAN TOMPKINS:

Q I want to see if I got that information correctly. That 80 or 85 cases you referred to were cases where men had been sentenced to death and their sentence had been commuted to life?

A That is right, sir, since 1915.

Q Since 1950?

A No, 1915.

BY SENATOR YOSKO:

Q How many since 1950?

A I don't have those figures, ir. There have been very few.

ATTORNEY GENERAL McBRIDE: What was the question?

CHAIRMAN TOMPKINS: How many persons under death sentences have had their sentence commuted from death to life imprisonment since 1950? The information he gave us was since 1915.

ATTORNEY GENERAL McBRIDE: I have a record that says 83.

THE WITNESS: That is since 1915.

ATTORNEY GENERAL McBRIDE: Yes.

CHAIRMAN TOMPKINS: Senator Yosko is now asking since 1950.

ATTORNEY GENERAL McBRIDE: Oh, since 1950?

THE WITNESS: I can get those figures but I don't have them with me.

ATTORNEY GENERAL McBRIDE: We can get them, too, but we don't have them prepared now.

BY MR. KOHN:

Q Mr. Taylor, are you concerned with the diagnostic clinic?

A I have general supervision over both clinics, the one in Philadelphia and the one in Pittsburgh.

Q There is a change in the setup since 1953. Now the court can send them to a diagnostic clinic, and then you determine where they shall be in prison?

A That's right.

Q Previous to that time it has been the custom to have the person sentenced to a particular penitentiary, and then the psychiatrist there would make an evaluation, would he not?

A That is right.

Q And the same prisoner might be transferred from Eastern to Western and the psychiatrist at Western would make an evaluation?

A That is right.

Q And quite often those two would be exactly opposite of each other?

A Not quite often. It can happen but I wouldn't say quite often.

Q Well, I went over quite a number of cases. I think you know that.

A That's right.

BY SENATOR YOSKO:

Q What is the number of sentences commuted from death to life imprisonment since 1950? How many of those subsequently received a pardon or release since then?

ATTORNEY GENERAL McBRIDE: I think it is very likely that none were pardoned.

SENATOR YOSKO: Have any been released, paroled.

ATTORNEY GENERAL McBRIDE: Well, they are commuted to life and are on parole, then the Parole Board would supervise them.

SENATOR YOSKO: Well then, how many of them were paroled and out of prison?

ATTORNEY GENERAL McBRIDE: That is the record we do not have, but which Mr. Hean will get for the committee. We didn't make that up for 1950 to date.

SENATOR YOSKO: How many since 1915 were electrocuted? Does anybody have that information?

THE WITNESS: Yes sir, we have that figure.

ATTORNEY GENERAL McBRIDE: Now is this since 1915?

THE WITNESS: This is all since 1915. It should be 344.

ATTORNEY GENERAL McBRIDE: Apparently I didn't know it was this high; 344 since 1915.

SENATOR YOSKO: Were electrocuted? How many did you say had their sentences commuted from death to life imprisonment?

ATTORNEY GENERAL McBRIDE: Eighty-three.

THE WITNESS: Eighty-three, and that includes the three in question, so it would be eighty.

CHAIRMAN TOMPKINS: Well, of those eighty-three who had their sentences commuted from death to life, were there any of those eighty-three whose life sentence was later commuted to parole for life?

THE WITNESS: Yes.

SENATOR YOSKO: I asked that question. I wanted to know how many.

THE WITNESS: In twenty years, off-hand I can think of two but I am sure there must have been more than that because I am not familiar with the cases in the eastern part of the State.

ATTORNEY GENERAL McBRIDE: I am sure that there are some.

THE WITNESS: But I do know two from the western part of the State.

CHAIRMAN TOMPKINS: It would be interesting information.

ATTORNEY GENERAL McBRIDE: Yes, we didn't get it. Now do you want it all the way back or since 1950?

REPRESNTATIVE LOPRESTI: I think both.

SENATOR YOSKO: Well, if you have both, you can break one down.

MR. HEAN: The death record that shows the persons convicted of death and then those commuted going back to 1875?

ATTORNEY GENERAL McBRIDE: Yes, and then the next question is those who have been sentenced to death and then commuted to life imprisonmnt and then commuted from life imprisonment to life on parole. That is what we want to get. I do not think you need to get it today.

CHAIRMAN TOMPKINS: We would like very much to have that on these eighty-three whose sentences were commuted from death to life. How many of those eighty-three later had their sentence commuted to life on parole?

SENATOR YOSKO: Who were they?

MR. HEAN: I know two, Polens and Senauskas, both of Warren County.

THE WITNESS: Those were the two that I had in mind.

ATTORNEY GENERAL McBRIDE: Both from Warren County. Their cases were in the Supreme Court of Pennsylvania on the contention that a judge had made a promise of what sentence he would give to the defendant. So, you will find the Senauskas case reported, I think, in Volume 326 Pennsylvania. I think Polens is in the same Volume.

Is there anything further?

BY CHAIRMAN TOMPKINS:

Q Mr. Taylor, could you tell me and tell it just for information purposes, what is the population turnover in the prisons in the State of Pennsylvania?

A Roughly 3,000 per year.

Q Three thousand per year?

A Of the 7500.

Q Does the population stay pretty well stabilized around 7500?

A It hasn't been. In 1953 when the Bureau started we had about 6600 and a couple of weeks ago we passed 7500, and it has been a gradual increase ever since the end of

1953. However, in 1951 and 1952 we had been as high as 7700 and then when the Korean War broke out, the population dropped which is a phenomenon that happens with every war. A lot of the potentials go into the service and population drops and then after the war it starts building up again, but there has been a gradual increase since 1953.

BY MR. KOHN:

Q Well, how many do you have in Western Penitentiary?

A At the Western we have a little over 1000 right now. That includes the diagnostic center and what we call the house population. There are roughly about eighty in the diagnostic center.

Q How long do they keep them at the diagnostic center?

A Anywhere from four to eight weeks depending upon whether or not they have been in the system before.

Q And after they are given the diagnostic service who determines where they shall be incarcerated?

A That is my responsibility.

Q That is your responsibility?

A Yes.

Q Depending upon severity of the crime and the individual?

A Yes sir. We classify the institution of Western and Eastern as maximum and medium security, respectively. Rockview is minimum. Graterford is medium and minimum and, of course, Camp Hill has the boys under twenty-one. Huntingdon has defective delinquents. Most of those are men who wouldn't have an I.Q. over seventy-five. If they can finish second grade they are doing very well. Then the new institution will be for defective delinquents. Huntingdon will become a penitentiary and it will then take the same type of cases as Graterford.

But you have Eastern and Western for the people who—when we say maximum security, we are not necessarily thinking in terms of escape-proof, of whether or not they can escape, we are thinking of those who need the most attention. Serious medical cases, those who are becoming pre-psychotic, those who are escape risks, serious homosexuals and those who are combatant and assaultive. Those that we feel need more than the usual amount of custodial attention stay at Eastern and Western. The best cases go to Rockview and the in-betweens to Graterford.

Q Where did you send Darcy, to Eastern?

A Well, the big reason for it was that whenever we get cases where there has been a great deal of notoriety or a great deal of publicity we try if possible to separate some of the men. In the institutions, of course, you have clicques and you have a certain status of individuals—

Q Well then, couldn't he be sent to Western, which had been the same designation as the Eastern, maximum security?

A We could have. It wasn't the feeling of the staff down there that he needed maximum security.

Q Well, it was the feeling of the staff that Zietz and Foster both needed maximum security?

A In one of the cases, very definitely.

Q What about the others?

A There were some cases.

Q Which ones needed maximum security?

A Zietz, they felt should definitely stay there. I might say in Foster's case that one of the points that was taken into consideration in not moving him at this time was because of the physical condition of his mother. He got very few visits at Rockview. She wasn't able to travel. She had very little money.

Q There was no consideration at the time along the same lines as the Darcy case that his relatives were in Philadelphia?

A No, that didn't come out. But, of course, those men might be moved later on, but normally we do. If you have a group and there has been notoriety we try to separate at least the one who got the notoriety.

Q Do you separate the people who get life sentences from the other prisoners?

A No sir.

Q They are in the general prison population and enjoy the same privileges and same exercise?

A That's right. In fact, we have thirty some lifers up at Rockview righ now in the minimum security institution. We try to pick them out on the basis of personality factors rather than the amount of time they have. There was a lot of people who were opposed to that when we first came up with the idea about three years ago. Now that it has actually been tried up there, they are very happy with the arrangement.

BY SENATOR YOSKO:

Q I think you said the population increased substantially during a certain period. What period was that?

A The increase started almost immediately after the cessation of the Korean war and boys start coming back. Now we had the same type of increase after World War II.

Q What type of crime was the majority?

A Whenever you have good times, you have an increase in crimes against persons; and in very hard times, you normally have an increase in crimes against property. We feel this is due to the fact that people have more money; they get out in the world and mix more with other people; they can travel more; they drink more and do a lot of those things, and you normally get an increase in the crimes against persons, such as rape, homicide, assault and battery, and so on during periods of relatively good times. Then during depressions, you get your burglary, larceny and robberies and so on.

BY MR. KOHN:

Q Your prisons are overcrowded, are they not, Dr. Taylor?

A We will not be too seriously over-crowded when we get our new institution. We have some overcrowding now but once—providing of course, that this increase doesn't continue, and there has been no let-up so far.

Q What is the capacity of the new institution?

A Its capacity will be 1000 and that will relieve our over-crowding.

Q In Huntingdon?

A No sir. That is the one in Luzerne County, but Huntingdon will then become a penitentiary to take care of the overcrowding.

MR. KOHN: No further questions.

ATTORNEY GENERAL McBRIDE: That is all.

(Witness excused)

HENRY E. HARNER, recalled.

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Harner, you have been previously sworn?
A Yes sir.
Q You were a member of the Board of Pardons that commuted the sentence from death to life of Foster, Zietz and Darcy?
A Yes sir.
Q Did you vote because of any political or improper influence?
A I did not, Mr. McBride.
Q Did anyone ever talk to you in advance of the case with the idea of influencing your vote?
A In this particular case?
Q Yes.
A No one—and you can underscore the words and you can put them in italics—no one ever spoke to me about either Darcy, Dietz or Foster.
Q Did you receive a copy of any Court of Appeals' Opinion?
A No, I had to look that up myself.
Q There was testimony that some members of the Board were handed a copy of an opinion.
A I did not receive any.
Q Mr. McCloskey testified that he did not give you one, and I ask you, did anyone else give you one?
A No one gave me a copy.
Q Were you motivated by anything else except by your conscience and your sincere view of the case?
A I was not motivated by anything other than those facts, Mr. McBride.
Q Would you have voted the same way had the other three voted the other way?
A I believe I would have and I would vote the same way today as I did in September of last year.

ATTORNEY GENERAL McBRIDE: That's all.
MR. KOHN. I have no questions.
(Witness excused)

LIEUTENANT GOVERNOR ROY E. FURMAN, recalled.

DIRECT EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Governor, you were a member of the Board of Pardons which commuted the death sentence of Foster, Zietz and Darcy, is that correct?
A Yes sir.
Q There has been testimony by Mr. McCloskey that he handed you a copy of the Court of Appeals' opinion including both minority and the majority opinion, will you comment on that?
A Had I been asked that question prior to listening to Mr. McCloskey, I would have said "no." But since I heard him testify that he gave it to me, I know it must be true. I can honestly state that I have no recollection of it.
Q Have you any recollection of having read it?
A I read it at the time of the hearing but I haven't any recollection of reading it prior to that. It completely escaped my mind.
Q Were you influenced by any political or other unworthy considerations in voting the way you did?
A No sir.
Q Did you vote as you did only because of your conscience and your sincere view of the merits of the case?
A That is correct.
Q Would you have voted the same way if the other three had voted differently?
A Yes, I would have.
Q If the matter were presented to you now afresh, would you still vote the same way?
A I definitely would.

ATTORNEY GENERAL McBRIDE: Cross examination.
MR. KOHN: I have no questions.
CHAIRMAN TOMPKINS: Any questions by members of the committee?
(No response)
(Witness excused)

ATTORNEY GENERAL McBRIDE: May it please the Committee, we have some good news for you. We thought we might take all day today and part of tonight, if not a bit of tomorrow morning, to present our testimony, unless there is more in respect to Delaware County. You remember I ask the indulgence of the Board so that we would present Mr. Lord. and I got some kind of an intimation that there was more testimony on Delaware County. Except for him and my ability to get Justice Cohen from the Supreme Court which is sitting in Philadelphia, actually sitting, today and may be sitting even on Thursday and if the Committee is inclined to wind up on Thursday perhaps I can insert a statement from Justice Cohen in the record unless the Board wants me to get him here which I will be delighted to do. But I think the Supreme Court would like him to be personally present while they are sitting because he represents the seventh judge on that court.

Now with the exception of that, I don't know of other testimony that we as a Board of Pardons will be presenting, unless anything else should turn up, then we are prepared to go ahead and listen to any other testimony of the Committee or Mr. Kohn or any testimony any member of the Committee wishes to present.

MR. KOHN: Then you have nothing further to present except Mr. Lord?

ATTORNEY GENERAL McBRIDE: That's right, and except Justice Cohen.

MR. KOHN: Nothing else—

ATTORNEY GENERAL McBRIDE: I know of nothing else.

MR. KOHN: . . . the Board of Pardons wants to call to the attention of this Committee?

ATTORNEY GENERAL McBRIDE: I don't know if you are going to hear any argument or not, maybe you want to dispense with them.

MR. KOHN: I would rather not argue.

SENATOR FLEMING: Mr. Chairman, I think from the standpoint of expediency, we should accept the statement from Justice Cohen in lieu of his appearance here, recognizing the fact that he is engaged.

CHAIRMAN TOMPKINS: Let us go into executive session on that. I was about ready to suggest we take a brief recess for 15 minutes, if the General has concluded with his information, to give our counsel an opportunity to get whatever information he has ready to present.

We will now have an executive session for a few minutes in connection with your suggestion on Justice Cohen.

(Short recess)

CHAIRMAN TOMPKINS: Mr. Hean, I am going to ask you to reappear on the stand, please.

FRANK HEAN, recalled.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, there has been a matter that the Chairman, at least, wants to get cleared up and I think the rest of the Committee would be interested in it, too:

The other day we had the case of Elliott before us in which the commutation was made based upon the man's mental deficiencies. Now so far as the record was concerned, it showed that those examinations had been made in periods considerably prior to the time of the hearing before the Board. And the question came up whether or not the Board had a current psychiatric report on him at the time they had the hearing? Do you remember that case?

A I have a recollection of the Elliott case. I do not have the file before me, Mr. Tompkins, to give you an accurate review of it. Probably Mr. Kohn—do you have it?

MR. KOHN: No.

BY CHAIRMAN TOMPKINS:

Q No, I do not have it here, but I have here a record of those who have been executed since January of 1955, all of which were before the Board, and in none of them do I find any psychiatric report on the parties.

Is it customary for the Board to have psychiatric reports in those capital cases that are under sentence of death at the time they hear them?

A There was only one that I recall where there were allegations made before the Board that the man was sane under the Mental Health Act, Amendment of 1953. There was then a request made for an examination. I believe the present Attorney General asked for that. It was in December, I believe, of 1956.

BY ATTORNEY GENERAL McBRIDE:

Q Not that late.

A What?

Q Not that late? What case, Gossert?

A Yes. There was one where there was a question as to sanity.

CHAIRMAN TOMPKINS: That was this past year where you raised the question about the man's sanity between sentence and the date of execution.

ATTORNEY GENERAL McBRIDE: The case that you are thinking of is a case known as Lemur in which—do you want me to tell you exactly what happened? I will tell you that.

CHAIRMAN TOMPKINS: What I am trying to get at is this, General:

ATTORNEY GENERAL McBRIDE: Well, that is still pending in the court.

CHAIRMAN TOMPKINS: Well, as long as it is pending, we do not want to go into it.

ATTORNEY GENERAL McBRIDE: That is what I thought.

CHAIRMAN TOMPKINS: What I am getting at is this: Here is a record of nine cases where the men were executed. All the men were before the Board. There is no psychiatric report in any of them excepting one that I find, and that I will take up separately.

Now in those cases which come before the Board when the man is under sentence of death, is the Board furnished with psychiatric information as to the man's condition at the time he comes before the Board.

ATTORNEY GENERAL McBRIDE: Sometimes it is and sometimes it is not. In one case which was sent back, there was a plea for a psychiatric examination, and Dr. Philip Roach made a psychiatric evaluation. The matter was then taken up in Delaware County and is still pending. The Board took no action on it because counsel said to the Board, a Mr. Turner, that he was going to file a petition in the court of Delaware County, and the district attorney said that he thought that was proper.

Mr. Turner did present such a petition to the court in Delaware County. I know the petition was entertained, but what result, if any, there has been since that time, I do not know. It has not yet come back to the Board.

CHAIRMAN TOMPKINS: General, you still seem to be missing the point of my inquiry, and that is this: Here are nine men who have been executed since January of 1955, two years ago. All nine of these cases have been before the Board. There is no record in any of these cases as to whether there was a psychiatric report before the Board to determine whether or not these men were sane and could be executed. Is there a psychiatric report on these cases which is not included as a part of the file?

THE WITNESS: No sir.

ATTORNEY GENERAL McBRIDE: I would say I do not believe that is so. I can answer from actual kniwledge only since I have been a part of the Board, which is December, 1956, to the present day, and there have been two capital cases before the Board. Both of those resulted in further court proceedings which are in the courts now. I have no personal knowledge as to what the Board acted on prior to that time and commencing with 1955.

CHAIRMAN TOMPKINS: Well then, I should like to make this inquiry. With the present status of the law, do you not think that when the Board hears these capital cases it should be a mandatory requirement to have a psychiatric report before the Board to determine whether or not a man is sane and whether or not the execution should be carried out?

ATTORNEY GENERAL McBRIDE: I would say where the question is raised, I would agree thoroughly that it ought to be mandatory. If there is a question of the sanity of a man about to be electrocuted, there should be as part of the Board's function and duty a psychiatric examination that will help it to come to its own conclusion on that point.

CHAIRMAN TOMPKINS: Don't they receive psychiatric information on other cases which are not capital cases?

ATTORNEY GENERAL McBRIDE: Yes, we do.

CHAIRMAN TOMPKINS: Isn't that part of the parole board record or part of the prison board report that they sent you, psychiatric reports?

THE WITNESS: Not in capital cases because as the testimony this morning indicated, these men are brought

into the penitentiary 48 to 72 hours prior to their execution, ordinarily, and there is no opportunity nor do they attempt to give the man a psychological or a mental or a psychiatric examination. They are there distinctly for execution, being held at the penitentiary for 48 to 72 hours.

ATTORNEY GENERAL McBRIDE: Previous to that they have been in county prisons?

THE WITNESS: They have been in county prisons. There has been none. But the suggestion you make is a good one. We find we have the power to call on, or the Act would so provide, that the Board of Pardons had the power to call on the psychiatric physicians in the various diagnostic institutions.

CHAIRMAN TOMPKINS: Do you see the point I am trying to make, General?

ATTORNEY GENERAL McBRIDE: I not only see it, I find myself in hearty accord with it. Since it has been part of the common law for 300 years that if a man is insane prior to trial, he should not be tried. If he goes insane during his trial, the trial should not be completed. Even though sane at the time the judgment is passed, should he become insane subsequent to judgment but prior to execution, the execution shall be stayed. Therefore, the Board of Pardons, where the question is properly raised before it that this man was insane subsequent to judgment but prior to execution, there should be a psychiatric examination sufficient to satisfy the Board itself one way or the other.

I heartily approve of that suggestion.

CHAIRMAN TOMPKINS: Well, do you think it should be only in those cases where they raise the issue?

ATTORNEY GENERAL McBRIDE: Well, Mr. Chairman, if there is no contention by anyone, the counsel, the court, or anybody else, I do not then believe that the law mandatorily ought to compel the Board to require such an examination. I believe the furthest it should go is to provide that where the contention is made, or the suggestion is made, then the Board ought to satisfy itself. But I would not deny the Board power to do it of its own motion in any case, because I believe it has that power.

CHAIRMAN TOMPKINS: The reason I raised the issue is because I do not find any record in any of these nine cases where the men had been executed and that question was considered.

THE WITNESS: You will not find it because the penitentiary, as has been stated this morning, does not—

CHAIRMAN TOMPKINS: Well, I realize that, but is that not a fault along the way some place that should be corrected?

THE WITNESS: The Board, of course, can employ a psychiatrist, but we use the penitentiary or diagnostic institutional psychiatrist.

CHAIRMAN TOMPKINS: For the one case in which the question of sanity was raised during the course of the trial of the case I find no psychiatric report in the file at the time it went before the Board regarding the man's sanity at that time.

THE WITNESS: You are thinking of the Altoona case.

CHAIRMAN TOMPKINS: No; the Lance case.

ATTORNEY GENERAL McBRIDE: I know nothing of that case.

CHAIRMAN TOMPKINS: Patrick A. Lance.

REPRESENTATIVE LOPRESTI: I don't think the Mental Health Act imposes any obligation. As a result, it seems that nobody would raise the question, and unless the prisoner himself or his family or friends indicate he happens to be an insane person, he probably would not admit it.

ATTORNEY GENERAL McBRIDE: It always turns out that the defendant himself insists he is sane.

CHAIRMAN TOMPKINS: The thing that has struck me so forcibly is that in so many of these cases that we reviewed, we found the psychiatric reports as a part of the record in the proceedings before the Parole Board, and in those cases where the men have gone to their deaths there is no psychiatric report.

ATTORNEY GENERAL McBRIDE: Yes, well I have no objection to making it automatic, none at all.

REPRESENTATIVE LOPRESTI: That would probably have to be by an amendment to the Act.

CHAIRMAN TOMPKINS: I realize that.

THE WITNESS: We have had this, Mr. Tompkins, where the attorney or friends asked that the Board employ a psychiatrist independent of the institutional psychiatrist. We have no funds to provide such service.

CHAIRMAN TOMPKINS: Well, the thing that strikes me is, here are men who are under the sentence of death; they have gone to their deaths, and there is no record of anything of that kind having been done to see whether or not they should be protected in that field.

Mr. KOHN: In the Elliott case, they plead insanity but there was no recent report upon which the Board based its commutation. They based it on an old psychiatric report.

CHAIRMAN TOMPKINS: That is right.

Well, that is one issue I wanted to bring up for clarification and consideration of the committee. Thank you, Mr. Hean.

Mr. KOHN: Mr. Hean, will you please remain in the witness chair just for an explanation on one case here? I have several cases the Senator wanted discussed. I would like to get rid of this one here.

BY MR. KOHN:

Q Do you have your book here for the May Session, 1957?

A May 1956 Session, yes.

Q I will give you the facts if it is all right with you. Caeser Ricci, R-i-c-c-i. The defendant was charged with bribery, misdemeanor in office and conspiracy from Allegheny County; sentence started on October 10, 1955. This is an application for a commutation of the sentence.

A I think it is March of 1956. We will get it.

Q Now, Mr. Hean, I ask you to look at the folder which is No. A-3460 and I ask you when that case was decided by the Board or when they made the recommendation?

A Well, is must have been heard in the March Session. It was continued from Februaryg until March of 1956, as the note here would so indicate. Then the action of the Board became effective on the second day of June, 1956. Now, I would have to have my book to give you just a run-down.

Q Here is what your book says, pending that we get it, I will read it. "A special Executive Session was held of the Board of Pardons on 6/5/56 at 3:35 p. m., Eastern

Standard Time. All Members were present. The following unanimous action was taken on cases as have been held under advisement."

Under that is listed No. 10A, March 1951, Caeser Ricci, granted. Now if your record shows as I read, how do you explain the fact that this commutation was signed by the Governor at least three or four days in advance of the Board's action, according to the warrant here as attested by the Secretary of the Commonwealth?

A 1956, second day of June.

Q The Board action was dated 6/5/56.

A The only thing there would be that there was an error in putting in the correct date here on this paper.

Q Who would make that error?

A Well, this comes down from the—

Q Well, who inserts those dates?

A I insert the date. I would say I made the error of putting in the second instead of the fifth.

Y That error would be a typographical error?

A That would be a typographical error.

Q Are those checked by anybody?

A Yes.

Q We have had several of those. Are those checked by anybody?

A Yes, I checked them. I checked them, Mr. Kohn.

Q How would it be possible to have a meeting on the fifth of June and the warrant dated on the second?

A The only explanation is that either this date or that date is in error.

Q What about "fifty-four"?

A"Fifty-four," we corrected that and made it "fifty-six." That was done in the presence of several people.

Q You checked those yourself?

A I checked them, yes.

MR. KOHN: That is all.

(Witness excused.)

DAVID KOHN, recalled

THE WITNESS: Now, Mr. Yosko asked that several cases be looked into, and I would like to give a report on one of them.

Here is Frank Ciraolo, C-i-r-a-o-l-o, A-673. This defendant was given seven and one-half to fifteen years and three to six year, to run concurrently, with a fine of $2,000; charges, burglary and armed robbery. He was sentenced to the Western State Penitentiary and his sentence began on November 26, 1948. This arose in Blair County and the defendant plead nolo contendere and the Judge was Chester Fetterhoff and the District Attorney was Parker H. Loose.

The defendant had applications in the February Session 1951, January Session 1952, April Session 1955 and June Session 1956. He had several attorneys representing him at different times. He had a previous record in 1948 of petty larceny which was withdrawn; and in 1943, petty larceny, three years' probation. The district attorney was opposed to the application, and his defense in the application was that he was not guilty. He had only served one-half of his minimum.

I might say that the application had been granted by the Pardons Board composed of Truscott, Livengood, Wood and Smith, who recommended a commutation of sentence from seven and one-half years to six years, two months. Governor Fine disapproved this recommendation on June 17, 1954.

Gene Smith, a Member of the former Pardons Board, appeared before the Pardons Board which heard the last application on behalf of Ciraolo, although he was represented by M. Barney Cohen of Pittsburgh.

The Board turned the last application down also. At that time, Smith reviewed the case, gave his opinion of the case, the facts in the case. I know something about it because one of the three men involved in this case—. They robbed a man by the name of Daniel Lamont, who was a bookie operator and a race horse man up in Altoona, and forced him by gunpoint to open his safe and took $25,000 cash and valuables from him. Lamont, the victim, identified James Langden and Frank Ciraolo, but did not identify Louis Sprucio, who was released on a writ of habeas corpus.

Langden was found in Dauphin County, near Hershey, with two bullet woulds in his head, and nobody has ever been picked up for that, although it happened very soon after the robbery.

Now, there are no letters in the file from anyone that I could see that was in any way politically connected. The Governor turned this down and Gene Smith took exception to Governor Fine's formal action. He stated as follows:

" 'This case was heard in December, 1954, at which time I was privileged to be a member of this Board. The Board unanimously recommended commutation. Shortly after it was heard and the recommendation was made, I was contacted by a friend of mine from my home town in Allentown, Pennsylvania, who had been seen or talked to by the priest of this boy's family in Brooklyn. He naturally gravitated to me, and I personally investigated and looked into the matter after the Board had recommended it.

" 'The then Governor refused the Board's recommendation, and my inquiry revealed that he did so on information given to him by a former Attorney General, Judge Woodside, who did not hear the case, whose knowledge of the case stemmed from information and publicity given to a sequel to the robbery, to wit, the finding of a dead body in Hershey. I was a little shocked at that time to learn of the intervention of a man who had not heard the facts. And, in addition to being shocked, I had been a little alarmed because I saw the beginning of a star chamber where, without hearing, a man could be tried, convicted, and sentenced without appearance, witnesses, or testimony.

" 'I spoke to the Judge about this matter. He took the position that it was within his province, and, of course, I was in no position to argue with that type of thinking.' "

He goes on: " 'There is another item in this, in his record, which may cause you some concern and that is the fact that he was given a suspended sentence because of the prison riots back in 1953, I think. That has always been rather a confusing issue, at least to me. Those prison riots were terrible, and those who were involved should have been punished. The Department of Justice investigated them and I believe they made wholesale indictments. Many of them claimed they were innocent; they were in the prison, they could not get out; they could not avoid being there.

"'One of the most terrible moments in a man's life is to be involved in a prison riot because there is savagery at the worst.

"'So they made a deal. The Department of Justice made a deal with the counsels for these boys who said: 'I am not guilty; I did not do anything, but here, I am indicted.' They said we have got to produce a record; we have got to show the public that we have convicted people. So they plead guilty and the deal was made and they were given suspended sentences by the court.

"'So it is my position, and Frank Ciraolo's position, that I believe there are around 15 or more who went through the same ridiculous rigmarole. They were in-involved in the prison riot, so that then they should have been punished severely. But putting this hoax to the people of pleading guilty and getting a suspended sentence is just what I call it, a hoax.

"'So that we have that, and that may becloud the record. It may have beclouded Judge Woodside's judgment when he took it upon himself when he advised the Governor to ignore the Board's recommendations.

"'I believe this boy is ready. I think he was the victim of an over-officious public servant five months ago.'"

Now, inasmuch as I, at that time, happened to know something about the prison riots—actually, I was in charge of the prosecution—I wish to state that Mr. Smith did not know what he was talking about. There were not any deals made. It is true that the Allegheny County courts were very reluctant to impose sentences on any of the prison defendants. I think we brought 135 prosecutions and I think about seventy-five percent convictions were gotten. The reasons for the Allegheny courts not wanting to impose sentences on these boys were because the prison riots happened in Allegheny County, the criminal act happened there, and the courts of Allegheny, the County of Allegheny, did not want to bear the expense of imprisoning them any further than they had been given by their own county. There were no deals made. Gene Smith is a classmate of mine, but he did not know what he was talking about when he alleged there were any deals made.

Now, is there anything further that you would like me to bring out, Senator Yosko?

BY ATTORNEY GENERAL McBRIDE:

Q Did the recommendation of the Board of Pardons mention that he was found guilty of the prison riots?

A If you will just wait a minute, I will be glad to find that for you.

Q He was found guilty?

A Of the prison riots? He plead guilty.

Q He plead guilty and he was given a suspended sentence?

A The comments here on this sheet show he was involved in the Western State Penitentiary riot, not sentenced for riot. I mean they didn't sentence them; they just suspended sentence on all of them.

Q Did the recommendation of the Board of Pardons say what the district attorney's position was?

A Oh, yes. He opposed it all the way through.

Q Yes, but did the recommendation say that?

A Wait, I'll get that for you. The recommendation of the Board of Pardons, no.

BY CHAIRMAN TOMPKINS:

Q Was the commutation finally granted in this?

A No.

BY ATTORNEY GENERAL McBRIDE:

Q Parker Loose did object?

A Yes.

Q He had two larceny cases?

A Yes.

Q One of which was withdrawn; the other on which he got three years' probation.

A Yes.

ATTORNEY GENERAL McBRIDE: I have no further questions.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Kohn, you read so fast that I lost the trail somewhere along the way. The defendant here was convicted of—

A Armed robbery.

Q Armed robbery in connection with the stealing of $25,000?

A Yes.

Q And he got how much?

A He got seven and one-half to fifteen years for armed robbery and three to six years for burglary to run concurrently.

Q That was when?

A That was on March 22, 1949, to date from November 26, 1948, when they were imprisoned.

Q The first application for pardon was made on what date?

A February Session, 1951.

Q That would be approximately three years after he had been in jail?

A That is right.

Q And the Board at that time recommended?

A No.

Q They did not?

A No. The recommendation was not until the April Sessions, 1954, which was on the third application.

Q There were three applications?

A That is right.

Q On the third application, then the Board recommended commutation of what, to what period?

A From seven and one-half to six years, two months.

Q From seven and one-half to six years, two months. Had the time expired at the time of the hearing, or approximately that time?

A No, the Board said as follows: "Expiring on January 26, 1955", which would have been some time later.

BY ATTORNEY GENERAL McBRIDE:

Q But it really is still 1954?

A Yes.

Q Not 1955?

A No, they recommended expiring on January 26, 1955, but they heard it in 1954 and recommended the seven and one-half years be commuted to six years, two months, expiring in the future, on January 26, 1955.

BY REPRESENTATIVE LOPRESTI:

Q The Governor then refused to accept the recommendation of the Board?

A The seventeenth day of January 1955, Governor Fine disapproved the action of the Board of Pardons.

Q Now, do I understand that there is something in the record that indicates that Governor Fine refused the recommendation of the Pardons Board on the basis of something that someone else told him who had not heard the case?

A That is what Gene Smith said.

Q And when did he say that and to whom did he say that?

A He said that on April 20, 1955 on the hearing before the present Board of Pardons—not altogether the present Board—I think Livengood was still on. That is the only one.

Q At that time Mr. Smith said that Governor Fine had refused this on the recommendation of—

A Of former Attorney General Woodside.

Q Former Attorney General Woodside?

Now when Mr. Smith appeared before the Pardons Board, did he appear as attorney for the man?

A No. Barney Cohen was the attorney. He said this: "'Frank Ciraola is represented, and still is represented, by Attorney M. Barney Cohen of Pittsburgh who sits on my left.'" That is what he said to the Pardons Board.

Q Yes, but what was Mr. Smith's capacity in the case at that time? Was he also counsel or just as a friend?

A He certainly got into it as a friend of the family because he talked to the boy's family priest. He thought the boy was innocent.

Q Does the application show whether or not he was listed as the attorney?

A No, the application does not list his name as counsel for—wait a minute. No, the application shows M. Barney Cohen alone as counsel.

Q I notice assitant counsel over there, Mr. Arnold does not quite agree with that statement.

A What is that?

Q Your assistant counsel does not quite agree with that statement.

A I only know what the record shows.

MR. ARNOLD: I was under the erroneous impression that he was.

THE WITNESS: He is not listed as counsel. I was the one who excerpted this case, not the assistant counsel.

REPRESENTATIVE LOPRESTI: While you were saying that, assistant counsel was shaking his head "no."

BY ATTORNEY GENERAL McBRIDE:

Q Well, in what capacity was he appearing?

A I guess as a friend of the family. He says so.

Q Did he have any official position with the Commonwealth at that time?

A No, he did not.

Q Was he counsel for the Auditor General?

A That I would not know, Mr. McBride. I really don't know. Could be, but I really do not know. I mean, the record would have to show that.

BY REPRESENTATIVE LOPRESTI:

Q Well then, the commutation was refused at that hearing, too, and there has never been any commutation of the sentence?

A No sir. Do you want me to go over that, how he got into the thing? He said, "'I was contacted by a friend of mine from my home town in Allentown, Pennsylvahia, who had been seen or talked to by a priest of the boy's family in Brooklyn.'"

BY SENATOR YOSKO:

Q Gene Smith sat on the Pardons Board when it first heard the previous application, did he not?

A That I could not tell you. I imagine he did because they were made in 1951. I do not know whether he was on the first one, Senator Yosko, but he was on the other two.

BY REPRESENTATIVE LOPRESTI:

Q Pardon me. I have one other thing I don't get quite clearly. Who was shot here in Dauphin County?

A Well, the accomplice was shot—wait I will tell you his name.

ATTORNEY GENERAL McBRIDE: Langden.

Langden, or something like that. I know because I helped investigate that case at that time.

BY REPRESENTATIVE LOPRESTI:

Q He was an accomplice of this defendant in this same robbery?

A Yes, that is right. I will give you his name. A fellow named Langden, and he was identified by the victim as having worked with Ciraolo in the holdup.

There was another fellow involved by the name of Louis Sprucio, who got out on a habeas corpus because they could not identify him. There were three of them involved. Langden was shot later and killed. Ciraolo was picked up in Brooklyn.

Q He was convicted and identified by the victim?

A Yes.

BY ATTORNEY GENERAL McBRIDE:

Q Langden had shortchanged his accomplice of $1000?

A Yes, ten 100-dollar bills. They found some money attached to his leg, but they could never prove the shooting.

BY REPRESENTATIVE LOPRESTI:

Q Now, there were some vicious characters along the line?

A Yes.

BY SENATOR YOSKO:

Q Mr. Smith did sit on the Board with one of these applications?

A He did and recommended the commutation which Governor Fine refused.

Q Would you, as an attorney, say that it was good ethics for Mr. Smith to represent this man before this Board who previously sat as members of the Board of Pardons?

A Senator Yosko, I am not going to express my opinion of another man who is a lawyer. That would be a lawyer's opinion and I don't think you ought to ask me that question. I don't think that is a fair question. I mean I don't want to be disrespectful to you, but being in my

profession, I don't think I ought to express my opinion of another lawyer.

REPRESENTATIVE LOPRESTI: If he was convinced of the man's innocence, certainly it was ethical.

BY SENATOR YOSKO:

Q Was there a conflict of interest there?

A You are going back to the same principle that I don't feel I ought to comment upon to criticize or justify another man's—I don't even know how he got into it or why he got into it or whether he was paid.

BY SENATOR SCOTT:

Q The sequence of events is that he sat on the Board. He recommended favorably and he convinced them. Then after he went off the Board he represented him as an attorney—or was it as a friend?

A As a friend; not as an attorney.

Q And there was no evidence to show that he got any money?

A The evidence seems to point to the contrary. They say the boy's priest came to him and talked about the case.

BY SENATOR YOSKO:

Q Well, there is no use asking you. That is why it is not fair to present these cases through you because you cannot answer. The questions we want to ask you refuse to answer because you are a fellow attorney.

ATTORNEY GENERAL McBRIDE: It's a tight union.

SENATOR YOSKO: Yes, I know it is.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Kohn, how many of the members of the previous Boards with whom Mr. Smith sat were still members at that time?

A Mr. Livengood.

Q Just Mr. Livengood?

A Do you mean at the last time he appeared before the Board?

Q Yes. Mr. Livengood was a member of the Board?

A Previously when they made a recommendation.

BY SENATOR YOSKO:

Q When the Pardons Board granted this commutation, Mr. Truscott, Mr. Livengood, Mr. Wood, Mr. Smith, and—I don't know who the Attorney General was at the time—were all members of the Board?

A It was Truscott, Livengood, Wood and Smith at the time the commutation was granted.

Q And when Smith argued the case, who was on the Board then?

A Well, I couldn't tell you that, but I do know that—I missed Miss Blatt—

ATTORNEY GENERAL McBRIDE: No, she was not yet on. It was Lieutenant Governor Furman, Attorney General Cohen, Secretary of the Commonwealth Finnegan and Secretary of Internal Affairs Livengood.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Kohn, on what basis did the Board recommend the commutation? What did they use for their reasoning?

A Just a moment of indulgence, please.

BY CHAIRMAN TOMPKINS:

Q Do I understand this man has never been commuted?

A No, he is still in jail.

SENATOR YOSKO: He was never commuted, Mr. Chairman, because the Governor disagreed with the Pardons Board but the Pardons Board which was functioning at the time in spite of the facts in the case and in spite of the fact that he figured in a prison riot, plead guilty to it, he was still recommended for commutation.

REPRESENTATIVE LOPRESTI: Well, there might be good reason for it. That is what I would like to hear.

THE WITNESS: Do you want the reason, Mr. Lopresti?

REPRESENTATIVE LOPRESTI: Yes, the reason why the Pardons Board recommended commutation.

THE WITNESS: Our recommendation is as follows:

"This applicant is thirty-one years of age and this was his first major conviction. He was sentenced to a term of not less than seven and one-half years nor more than fifteen years on a conviction of burglary and robbery in which $25,000 was taken. No others were sent to prison as a result of these offenses, but they, the accomplices, were released upon a writ of habeas corpus. At the present time this applicant has served more than six years of a minimum sentence. Since he has served more than six years of his minimum sentence of seven and one-half years and has an excellent institutional record in the Western Penitentiary, we recommend that his sentence be commuted and ask for commutation of seven and one-half years to six years, two months."

In other words, at the time it was heard, he had served six years.

BY REPRESENTATIVE LOPRESTI:

Q Well, the principal reason then was that he had served a substantial part of his sentence?

A Yes, his first offense.

REPRESENTATIVE LOPRESTI: Then he had a good record.

BY SENATOR YOSKO:

Q There was no mention made in the reasons for the commutation of the fact that he figured in the prison riots and plead guilty to it?

A No sir.

Is there anything further, gentlemen?

BY CHAIRMAN TOMPKINS:

Q Mr. Kohn, just one question on the last case you had: Was there more than one recommendation at any time?

A No, just one recommendation.

Q All other Boards just refused, and that was all there was to it?

A Yes, that's right.

CHAIRMAN TOMPKINS: Yes, that's right.

Any other questions of Mr. Kohn?

(No response from members of the Committee.)

ATTORNEY GENERAL McBRIDE: That is all.

(Witness excused.)

MR. KOHN: Now, Mr. Chairman, Mr. Evans has excerpted some cases. We will call him at this time to testify as to those.

JAMES W. EVANS, recalled.

DIRECT EXAMINATION

THE WITNESS: The first case is Lester Gore. January Sessions, 1953, No. A7140. This particular applicant had been sentenced for perjury before a Philadelphia Grand Jury concerning certain fixes and bribes in a Zoning Bureau down there and was sentenced from one to three years.

He started his sentence on October 8, 1952. Then two months after that he applied for a commutation. If you will pardon me it has been some time since we read these, and I have to bring myself up to date. It was December, 1952 he made his first application to the Pardons Board, and that case was continued until January, 1953 when the Board recommended commutation.

Governor Fine again refused to follow the Board's recommendation in January of 1953. The applicant applied in April of 1953 when it was refused. Re-argument was granted in May of 1953, and at this time it was granted, and the Governor signed the recommendation for commutation to be effective June 18, 1953. He was actually released from prison in June of 1953.

Six months later in December of 1953, he applied for a pardon, a full pardon. This was recommended to the Governor, and this was in December, 1953 and the salient feature here is that Governor Fine sat on this recommendation until January 14, 1954, which I think was the last day he was in office.

Now there is nothing in this file except these two things for whatever they are worth.

There is a letter in the file dated March 31, 1953, from the applicant's attorney, Harry J. Bellwoar, to the Pardons Board in which he makes reference to the fact that His Excellency, the Governor of Pennsylvania, had in a letter to the applicant's wife indicated that if the applicant had served more time, he would be inclined towards favorable consideration. Now this was when he was still in prison. There is nothing else in the file on that.

There is a letter in the file from the applicant's wife, Mrs. Gore, to the Board, I believe. It is in the file but it is a letter from the wife to Mr. Meehan. I just assume that by "Mr. Meehan," they mean Austin Meehan of Philadelphia.

There is nothing in the file that brings any further direct connection of a political influence other than that.

BY SENATOR YOSKO:

Q Austin Meehan is a political leader in Philadelphia, isn't he?

A As far as I know, I don't know him personally, but I have heard the name here.

Q And Mr. Gore is a ward leader in Philadelphia, a Republican Ward Leader?

A I don't know that of my own knowledge, but I have since heard that to be true.

BY REPRESENTATIVE LOPRESTI:

Q What is in the letter from Mrs. Gore to Mr. Meehan?

A She is soliciting his help. The minimum sentence was commuted from one year to eight months and ten days.

BY SENATOR YOSKO:

Q What was that again, Mr. Evans?

A The minimum sentence was commuted from one year to eight months and ten days. Wait until I find that letter. I made a note of it.

Q And then he was subsequently pardoned?

A That's right. That letter is here. I had made a note of it. I can tell you the substance of the letter without even being able to find it. It was an appeal to Mr. Meehan to do what he could to get her husband home to her. In this file there is a petition with a substantial number of names on it all favoring commutation. In looking over that petition, they all appear to be neighbors of Mr. Gore. They all have a similar address.

BY CHAIRMAN TOMPKINS:

Q Now is that letter addressed to Mr. Meehan or is that letter from the wife to the Governor?

A No, it's a letter to Mr. Meehan. I have a copy of the letter.

BY REPRESENTATIVE LOPRESTI:

Q Is it addressed to Austin Meehan?

A Here is a copy of the letter. Would you care for me to read it? It says: "Dear Mr. Meehan." It has no address on it. It has the date of May 14, 1953.

ATTORNEY GENERAL McBRIDE: Does that bear any relationship to the rehearing date? Does it have any significance to that?

THE WITNESS: I don't believe. but I will tell you very quickly as soon as I get this thing in order here.

It bears a relation here that the defendant had applied in April, 1953 at which time he was refused. He was then granted a re-argument in May of 1953. I don't know the exact date in May. At that time the sentence was commuted to be effective June, 1953.

ATTORNEY GENERAL McBRIDE: Was that after the letter to Mr. Meehan? Was it commuted afterwards?

THE WITNESS: I believe so.

Did you want me to read the letter, Mr. Lopresti?

MR. LOPRESTI: Yes.

THE WITNESS: It reads as follows: "Dear Mr. Meehan:

"As you probably know, Lester's appeal is to be reheard before the Board in Harrisburg on Wednesday, May 20th. I certainly hope that this time Governor Fine approves, for the importance of Lester getting home as quickly as possible is very real.

"Bill's graduation"—incidentially, if I may interpose here, in checking through the file, Bill is the son of the applicant—"takes place on June 6th and if at all possible I hope that his father can be there—it will mean everything in the world to Lester and even more to Bill.

"Doris is expected to have her baby about the same time and I hope that her child does not have to be born without her father being home. And there is, too, the natural apprehension that parents have until these events are safely over.

"Of the most immediate and perhaps the gravest concern at this moment, is that Lester's mother is in a critically ill condition. His devotion to his parents, and most especially to his mother is something far beyond the usual feeling between children and parents and if anything should happen in this direction before he is home, I hesitate to even think of the effect that it will have on him. He has gone through this ordeal with

courage, I think, but this he would not be able to take, I know. I don't know what to do about this and I can only pray hard, I guess, that such a terrible thing does not occur before he is home.

"I spoke with her doctor regarding the exact condition and what to expect and from what he told me, I realize that if Lester does not get home very soon, he is going to get this blow while still in prison. The doctor, incidentally, said that he would be willing to confirm this opinion, if I wanted him to do so.

"I can only hope that if Lester's appeal is granted this time, that the Board and Governor will find the human sympathy in their hearts to expedite the matter as quickly as possible under the circumstances. You have done so much for us already, that I hate to continuously be asking your help, but if you can be of any assistance along this line, I need not tell you how grateful I will be.

"Thank you once again for all the help and all your many kindnesses and my very best wishes to you for a successful "May 19th."

"Sincerely,

/s/ "Marion Gore"

"P. S. Lester is not aware of his mother's condition and I do not think it wise that he be told how serious it is, at this moment."

BY SENATOR YOSKO:

Q Was the rehearing granted after that letter?
A No.
Q The re-argument, I mean?

A No. The re-argument had been granted prior to that time but the open hearing on the re-argument was held about a week after this letter was sent. Now that's the time that the commutation was granted.

BY REPRESENTATIVE LOPRESTI:

Q Is there anything in this file to indicate how a letter to Mr. Meehan would get in the Pardons Board file?

A Nothing whatsoever except that it is stamped "Received at the Pardons Board," with the Pardons Board stamp. I checked. I tried to find that out, but I could not.

BY REPRESENTATIVE BELL:

Q Is there another letter in the file?

A Another letter? Yes, there is a letter of May 20, 1953, to the Honorable, Governor John S. Fine from Marion Gore.

Q It is a letter of the—

A This is the letter from which I got the information that Bill was the son. I can read that and I can give you a very brief resume of it. It recites the illness of Mr. Gore's mother; it recites the fact that the son is to graduate on the 18th of June, 1953 from Valley Forge Military Academy.

Incidentally, as a point of interest, he was released the day after his son's graduation anyhow.

It recites in this letter—I'll read it if you want. We may save time.

This letter to Governor Fine from Marion Gore, the wife of the applicant, and in effect is a repetition of the letter to Austin Meehan. It recites essentially the same particulars.

BY MR. KOHN:

Q What is the date of that letter?

A It is dated May 20, 1953, six days after the letter to Mr. Meehan.

BY REPRESENTATIVE LOPRESTI:

Q I can understand how that letter can be in the file, but I was trying to understand how a letter addressed to Mr. Meehan could be in the file.

A I can't explain that, I don't know. I looked over the file and I don't know.

BY SENATOR YOSKO:

Q What were the facts that constitute the crime? What was the sentence?

A Mr. Gore had been called before a Grand Jury to testify as to certain alleged bribes and pay-offs having to do with zoning violations, I believe, as I recall it. And he had testified under oath he had never received anything in the way of bribes or improper payments. I believe it was shown later on he received $600. He was found guilty of perjury and he was charged with perjury.

BY REPRESENTATIVE LOPRESTI:

Q Was he also a member of the particular Board?
A I believe he was, yes.
Q He wasn't tried on the bribery charge, but just on the perjury charge?

A Just on perjury. Mr. Dilworth, I believe, was the district attorney who tried him at that time.

BY SENATOR YOSKO:

Q What was the recommendation of the district attorney?

A He thought that it was premature, and I don't believe there was any opposition later on. I am not certain about that; I will check that for you.

You are talking now in regard to the district attorney's position in regard to the pardon or the commutation or both?

Q Both.

A December, 1952, the district attorney's office was opposed to clemency.

Q Who was the judge?

A The trial judge was Leventhal, Louis E. Leventhal.

Q What was his recommendation?

A He was to make his feelings known at the time of the hearing. And I am trying to find now his letter. There is a letter in here from the judge I am quite certain. I believe, as I recall it, he felt that the application was premature.

BY CHAIRMAN TOMPKINS:

Q Was that the first application or the reargument?

A Each time this case came up, or every time a new application was filed for a re-argument or rehearing, I didn't find any evidence in the file that there were new opinions obtained from either the trial judge or the dis-

trict attorney. I find, as I say, the letter of December, 1952 for the district attorney. At that time he was opposed to it. I can't find the letter I have in mind, but there was a letter.

The parole report says the trial judge withdrew his comments, but I see nothing in the file that the trial judge did withdraw his comments.

BY SENATOR YOSKO:

Q Will you give us the time sequence of the filing of the original application plus any rehearings or supplemental applications or whatever you have in the file?

A Sequence?

Q Yes sir, the time sequence.

A The first application was fild in December of 1952. That is the first application for a commutation of the minimum sentence.

Q When was that?

A December, 1952.

Q What was he sentenced for?

A He started serving time on October 8, 1952. Roughly, two months had elapsed from the time he entered the penitentiary until the time the first application had been filed.

Q Yes?

A The case did not come up for the December Session of 1952. It was continued to January, 1953, another month. At that time, in January, 1953, the Board of Pardons recommended to the Governor the minimum sentence be commuted. That was refused by the Governor. He refused to follow the Board's recommendation. According to the recommendation that was prepared at that time, it states here that he had served three and one-half months of a minimum sentence of one year.

BY REPRESENTATIVE LOPRESTI:

Q What reason did they give for recommending it, Mr. Evans?

A Do you want me to read it entirely, or do you want me to give you a resume of it?

Q A resume is all right.

A The sum and substance of the recommendation was that he had a very good reputation. His neighbors had presented this petition before the Board. This was presented in open hearing, incidentally, by a neighbor of his named Hugh Moon, that his previous character was good and that he had no prior criminal record of any kind.

The Eastern Penitentiary had advised the Board of Pardons that the applicant had an excellent institutional record. It does state that the D.A.'s office is opposed.

That is the sum and substance for the basis of the recommendation in January, 1953.

BY SENATOR YOSKO:

Q All right. When did they have the next hearing?

A He then re-applied. I believe it was a re-application. He then applied in April of 1953, which was roughly three months after—well, it was actually a month and one half after Governor Fine had refused to accept the recommendation of the Pardons Board because the Governor had refused them on the second day of March, 1953. H then re-applied in April 1953 and this was refused.

He requested a re-argument for May of 1953, and at that time the sentence was commuted May, 1953 to be effective June 18, 1953. And Governor Fine signed it on June 12, 1953, but the prisoner was actually released on the 19th of June, 1953.

Q So that from the time he was sentenced, he was granted three hearings, or two hearings and one re-argument?

A He had a continuance in December of 1952 which was heard in January of 1953. He applied in April of 1953 and was refused. He had a re-argument in May of 1953 at which time it was granted. Three, I would say.

Q Assuming that you are familiar with the rules of the Pardons Board which we discussed at length when we opened these hearings, was there a violation of any of those rules in these procedures?

A The only thing I could say to you, if you are asking me for an opinion, I will have to give the stock answer given here. It is a constitutional Board which makes its own rules and adjusts them as they see fit.

Q Did they have those rules at that time?

A As far as I know they had the same rules at that time.

Q I think you said at the second hearing the Pardons Board refused to recommend it?

A That was in April, 1953, that is right.

Q What condition had changed between the first time that they recommended it and the second time when they refused to recommend it?

A I don't know. There is nothing in the record indicating what the change was.

BY SENATOR YOSKO:

Q Well, isn't there a rule we discussed at length requiring some new evidence before a petition would be granted or approved?

A I will say this. I don't know the answer to your question specifically, but as I recall the amended rule that we have had floating around here was a mimeographed sheet. I believe that was passed by the present Board in March, 1955, but I believe that was just a re-affirmation of a rule that had previously existed. They had intended to strengthen that or abide by it more strictly than they had in the past.

Q From your examination of the files, there are no new facts that were presented as a basis for the second petition and the re-arguments, aside from the reasons indicated in the letter from Mrs. Gore?

A It is difficult to say, unless you would call new facts the critical condition of the applicant's mother or the graduation of the son. Other than that, I see nothing new that was not in the case before, and even those things may have been in the case before. I don't know.

BY REPRESENTATIVE LOPRESTI:

Q So that both Boards had a rule that required one year to lapse between a new petition, and it was this recent Board that required new evidence to be furnished if you wanted to hear it before a year had expired?

A I am not certain that is exactly correct. If my recollection serves me correctly, the rule has been for a good number of years if you wanted to have a new hearing or rehearing within one year, you had to present to the Board new facts or new evidence of some sort to substantiate it. However, the present Board, I believe, in March 1955—I think I am correct on that—in one of their

executive sessions had agreed or had a resolution to the effect they were going to enforce it a little more strictly than it had been in the past. I believe that is the way it worked out.

BY SENATOR YOSKO:

Q Now again how much time elapsed between the last argument for the pardon and the actual date of the granting of the pardon?

A The argument?

Q Yes.

A Well, it was heard in the May Session of 1953, and I would assume that was usually in the second or third week in the month. I don't know the exact date offhand. The 20th, it is in the record.

Q You are referring to the pardon, not the commutation?

A Yes, that is what I am referring to. Are you referring to the pardon?

Q Yes.

A In December, 1953 that was argued and recommended to the Governor by the Board, that is the pardon. Governor Fine didn't sign the warrant until January 14, 1955.

Q When did he leave office?

A I don't know the exact date, but I think I heard the 14th or 15th was the last day he was in office.

Q Does the warrant indicate when the recommendation was sent to the Governor's office?

A I don't believe it would. I don't think they ever do.

MR. KOHN: No.

BY SENATOR YOSKO:

Q What date does the recommendation of the Pardons Board bear?

A There is no date on them. They just have the December 1953 Session.

Q What date is indicated on the warrant that the Governor signed?

A January 4, 1953.

Q We would presume, then, that is the date that it was sent down to him?

A Well, if you want to presume that, you can, but I don't know.

BY REPRESENTATIVE LOPRESTI:

Q Well, there was over a year's time between the action of the Board and the action of the Governor?

A That is correct.

MR. KOHN: That is all.

Any further questions?

DEPUTY ATTORNEY GENERAL WRIGHT: I have a couple of questions to ask.

BY DEPUTY ATTORNEY GENERAL WRIGHT:

Q Now what reasons were given by the Board on the occasion upon which the Governor approved the recommendation for commutation of sentence?

A The reasons given by the Board of Pardons to the Governor for commutation of minimum?

Q At which time he approved the recommendations. Do they vary significantly from the recommendations made by the Board prior to that time?

A I don't believe that they did. I will check.

The only recommendation that is in the file, Mr. Wright, is the recommendation of May, 1953 which is the one that I read into the record before, at least, I think I gave the substance of it.

SENATOR YOSKO: You did.

BY DEPUTY ATTORNEY GENERAL WRIGHT:

Q The recommendations which the Board made in January is not there?

A I don't see it in the file anywhere. I don't have any recollection of having seen it either.

Q Now can you tell us what reasons were given by the Board to substantiate their reasons for recommending a pardon?

A It is right here. I will read them. They are very short. This is December 1953:

"This applicant is fifty-two years or age. He had no prior criminal record. He was convicted on perjury in Philadelphia County and sentenced to a term of not less than one nor more than three years. After having served approximately eight months he was granted commutation and has been on parole approximately one and one-half years.

"He desires this pardon because he has alleged that he is completely rehabilitated. At the present time he is in the building business and is unable to apply for bids and fidelity bonds of any sort by reason of this conviction.

"Since he has been in no further difficulty and since he is completely rehabilitated and will not again offend against society, we are recommending that a pardon be granted."

Q That was in December of 1953, is that correct?

A That's right.

Q And they had granted his commutation in June of 1953?

A That's correct.

Q How could he have been on parole supervision for a year and a half?

A I can't answer that question, Mr. Wright. I don't know.

There is a letter here from Roy G. Farrow, Assistant Superintendent of the Parole Supervision, dated December 7, 1953 which is fairly short which might throw some light on your question. I don't know him personally but here is a letter that is in the file.

"This parolee is applying for a pardon in the December Session of the Board of Pardons. He is white, about fifty-two years old and has been on parole since 6-19-53. He was sentenced in Philadelphia County on 10-8-52 to serve one to three years in the Eastern State Penitentiary for perjury.

"The subject had been employed as Secretary of the Philadelphia Zoning Board and was accused of seeking and accepting money for issuing permits and reclassification orders. Under oath he denied having done this but was convicted. He had no previous criminal record.

"He was paroled 6-19-53 after commutation of sentence to live with his wife in Philadelphia and to work as a carpenter foreman for his father who had a construction company. The subject continued at this job and appears to have adjusted well.

"He applies for a pardon on the basis of his desire to return to public life and has need for a pardon in order to do so. The maximum sentence expires 10-8-55."

Q Well, that letter indicates that he had been out of prison only approximately six months, too, does it not?

A Yes, it does.

Q And yet the reasons stated by the Board in support of their recommendation for pardon states that he had been under successful supervision of the Parole Authorities for one year and one-half?

A No, I don't believe a year and one-half, this letter was written on—

Q No. I say the reasons given by the Board?

A He has been up here approximately one and one-half years, you are correct.

Q You have no idea what may account for the basic possibility of that statement?

A No, there is nothing in the file to indicate any basis for that statement.

Q And there is nothing in the file to indicate the reasons given by the Board for their action in January, 1953?

A No. You mean the recommendation of the Governor that was refused?

Q Yes.

A No, I don't see it here and I can't recall having seen it before.

DEPUTY ATTORNEY GENERAL WRIGHT: That is all.

BY REPRESENTATIVE LOPRESTI:

Q One more question, Mr. Evans. Was the composition of the Board the same the first time that they granted or rather recommended it, the second time when they refused to recommend it, and the third time when they recommended again?

A As far as I know, it was with the possibility the Attorney General might have been replaced. I don't know for sure, but I think the Board was substantially the same. I don't know when Mr. Woodside left office and Mr. Truscott came in. I don't recall, but that is the only possibility to my knowledge where there would be any change.

Any further questions on that?

REPRESENTATIVE LOPRESTI: That is all.

(Witness excused)

CHAIRMAN TOMPKINS: We will now receive in evidence Pardon Board Exhibit No. 38.

Four sheets entitled "Commutation Cases for 1953, 1954, 1955 and 1956" respectively—produced, marked for identification and received in evidence as Pardon Board Exhibit No. 38.

AJP 4-22-57

CHAIRMAN TOMPKINS: We will now recess until 10:00 a. m., Thursday, April 25, 1957.

(At 4:55 a. m., the hearing adjourned until 10:00 a. m., Thursday, April 25, 1957.

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same.

A. J. PLESCE.

Reported by:

Anthony J. Plesce
Box 582
Harrisburg, Penna.

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

AT HARRISBURG, PENNSYLVANIA
DATE APRIL 25, 1957

VOLUME XIV

PATRICIA L. SAYER
P. O. Box 496
Harrisburg, Penna.
CEdar 2-2832

INDEX

Committee's Witnesses	Direct	Cross	Redirect	Recross
Richardson Dilworth	2514			
Kenneth E. Taylor (Recalled)	2537			
Joseph Nissley	2569	2595	2610 2617	2616
Edward M. Satterwaite	2619			
Donald W. VanArtsdalen (Recalled)	2634			
Paul J. Brenan	2637			
John M. DesRochers	2640			
Joseph Nissley (Recalled)				2657

EXHIBIT

Committee	Identified and Received
Exhibit No. 39— Listing of Capital Cases before Board of Pardons from 1915 to date	2560

BEFORE THE

JOINT LEGISLATIVE COMMITTEE

TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a.m., Thursday,

April 25, 1957

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

VICTOR H. WRIGHT, ESQUIRE, Deputy Attorney General,
Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street,
Harrisburg, Pennsylvania
For—Committee (Assisting Counsel).

JAMES K. ARNOLD, ESQUIRE, 2109 Market Street, Camp Hill, Pennsylvania
For—Committee (Assisting Counsel).

MR. KOHN: Are we ready to proceed, Mr. Chairman?
CHAIRMAN TOMPKINS: Yes.

. . . THE HONORABLE RICHARDSON DILWORTH, Mayor, City of Philadelphia, sworn:

CHAIRMAN TOMPKINS: Senator Yosko, Mayor Dilworth was subpoenaed at your request, so I will turn the witness over to you

BY SENATOR YOSKO:

Q Mr. Dilworth, during these hearings we heard testimony on the commutation and pardon of Lester E. Gore, a former Secretary of the Zoning Board of Adjustment in Philadelphia; and in connection with it there was a letter in the file from Mrs. Gore to Austin Meehan, in which she solicited his assistance. The day after the hearings were held, a statement was issued by Mr. Meehan in which he said, and I quote from the letter, "Certainly I tried to help him," meaning Gore, "just as I have tried to help thousands of other people," Meehan said. "I didn't think he should have gone to jail."

Since I, for one, as a member of this Committee, am not sufficiently acquainted with the fact as to whether or not he should have gone to jail, although the jury decided that, I would like to get from you the background in connection with this case.

Were you, Mr. Dilworth, the District Attorney for Philadelphia at the time the commutation and pardon was applied for?

A I was then, yes.

Q And did you write a letter, or did your office write a letter to the Pardon Board, either objecting to or approving the application for commutation or pardon?

A Well, we had the proceedings before the Parole Board and the Pardon Board, and they were always covered by one Assistant District Attorney who was assigned to that, and he discussed all the cases with Michael von Moschzisker, the First Assistant District Attorney, and, if they were of any importance, he would discuss them with me in person.

We didn't prosecute Gore. He was convicted and prosecuted before we came into office. We did oppose the parole. I think that there was an application for parole first—

ATTORNEY GENERAL McBRIDE: Commutation.

A (continued) Commutation. We did oppose the application for commutation and parole and pardon.

Q Did you review the case, and what sort of a recommendation did you make?

A I was familiar with the particular case because in the 1947 campaign I had stated that this was going on in the Zoning Board.

Q What was going on?

A A regular practice of shaking down people who wanted permits and changes in zoning and things like that.

Q Permits in connection with what?

A With applications for zoning changes or zoning exceptions or zoning exemptions.

Tow matters we brought out. One was in connection with zoning and one was in connection with the permits for the installation of the oil tanks and oil burners in homes, apartments, and office buildings. That was, of course, over in the Fire Marshall's office. We brought those matters out in 1947. The Committee of 15 went into it further, and a special Grand Jury of 1950 indicted the Deputy Fire Marshall and Mr. Gore.

Q And you did familiarize yourself with the facts before you wrote your letter to the Pardon Board?

A I was very familiar with the facts. I was the first person, I believe, to bring them out, to make the charges. That was in 1947.

Q What sort of recommendation did you send in to the Pardon Board?

A Well, we opposed it because this had been a uniform shakedown in the Zoning Board. It was not a question of a man having slipped once or anything of that kind. This was a real mill that they were running over there. If you wanted changes in certain categories, you paid certain amounts of money. There was practically a fee list.

Q According to the testimony, what part did Mr. Gore play in that so-called shakedown as you described it?

A Oh, he was the key of it.

Q He was the key of it. He was found guilty by the jury—

ATTORNEY GENERAL McBRIDE: Of perjury.

A That's right. He was indicted and convicted for perjury. As I said, that was done before we were in office. That was done by Mr. Kunzig special counsel, who was appointed by the Court, as my recollection—

BY ATTORNEY GENERAL McBRIDE:

Q He was a Deputy Attorney General?
A Deputy Attorney General for the 1950 Grand Jury.

BY SENATOR YOSKO:

Q According to the record, he was given a sentence of from one to three years in prison. Do you think that sentence was exorbitant?

CHAIRMAN TOMPKINS: I don't think that is a proper question.

SENATOR YOSKO: I asked that question because in Mr. Dilworth's letter, if my recollection serves me correctly, he says the application was prematurely filed; and I just want to get his reasons for saying that.

CHAIRMAN TOMPKINS: Let me see the letter.

BY SENATOR YOSKO:

Q Will you read your letter to the Pardons Board?
A I don't think that is my letter. I think that was prepared by Mr. Berkowitz.
Q Was there a letter sent in by your office?
A That is the only thing I was able to find in the file. Of course, I didn't have a chance to look at the files of the District Attorney's office.

BY CHAIRMAN TOMPKINS:

Q Is this the Pardon Board file or your file?
MR. KOHN: Pardon Board file.

BY SENATOR YOSKO:

Q Was this letter written on the stationery of the District Attorney while you were District Attorney?
A That's right.
Q Was the case discussed with you before the letter was written?
A Oh, yes, because I was very interested in this case.
Q This letter was written, then, with your knowledge and your consent?
A That is right.
Q Will you read the letter, please.
A It is not a very strong letter.
Q Well, read it, please.
A "Upon being arraigned on November 28, 1951, the petitioner, Lester E. Gore, pleaded not guilty to the above Bill. He was found guilty on November 30, 1951, and sentence was deferred pending a motion for new trial.

"On February 8, 1952, the motion for new trial was denied; and on February 13, 1952, the petitioner was sentenced to one to three years in the Eastern State Penitentiary.

"On appeal to the Superior Court, the conviction was affirmed.

"On October 8, 1952, the petitioner was committed to the Eastern State Penitentiary to commence his sentence. The petitioner has served two years of his sentence.

"The facts are as follows. A special Grand Jury of 1950 was instructed to receive evidence regarding—"I have to get this further and further away without my glasses—"to receive evidence regarding extortion and relating crimes in any department of the Bureau granting licenses. The petitioner testified before the Grand Jury that he never received nor demanded any money in connection with the obtaining of a building permit, zoning permit, use permit or any other matter that came before the Zoning Board of Adjustment. The testimony showed that on six different occasions during the years of 1946 and '47 the petitioner demanded and received a total of $675 in connection with the issuance of building permits and certificates for zoning variances relating to six separate properties.

"Max Houghton, building architect, testified he gave the petitioner the sums of $100, $50, and $200 in connection with building permits. The other witnesses corroborated the testimony in connection with that.

"Another builder, Carl J. Meyer, testified that he gave Calder A. Weingartner $100 in cash, with instructions to deliver it to the petitioner. Weingartner testified that he gave the money to the petitioner.

"James G. Durham, another builder, testified that the petitioner demanded $100 before an application then before the Zoning Board would be approved.

"One Marvin R. Pole, an officer of the club which was interested in the zoning approval, testified he placed $100 on a desk in the office of the Bureau of Building Inspections, and that the petitioner immediately went by the desk.

"Finally, one John McDevitt, a construction superintendent, who was employed to supervise the erection of a building, testified that the petitioner demanded $125 from him for the approval of a permit. When Mr. McDevitt brought the money to the petitioner, the latter refused to accept it, but said to hand it to Weingartner. Weingartner then gave the money to the petitioner.

"In all cases the applications for variances, which at first had not been acted upon or were held for disposition or were denied or refused, were immediately approved after payment to the petitioner.

"After an investigation was begun by the Grand Jury, the petitioner admonished Weingartner not to admit the various payments. The petitioner categorically denied that he received any payments in connection with the issuance of any zoning permits, and that his testimony was the truth.

"In connection with his large bank balance, the petitioner stated that these were funds that were used for his father's interests.

"The Commonwealth is opposed to the granting of clemency in this matter."

Q Mr. Meehan said he didn't think Mr. Gore should have gone to jail for the crime which he apparently committed. Do you agree or disagree with that?

A Well, I don't know that I should comment on that, really. I think the case—we opposed the plea for commutation, also the plea for parole, also the plea for pardon. It seemed to us that, if anything, the Judge had given him a very fair break in the sentence.

Q Who, to your knowledge, was Mr. Gore in Philadelphia, outside of being connected with this zoning?

A He had been active in Republican politics for many years.

Q In what capacity?

A He had been a ward leader.

Q Mr. Meehan was also active in politics in Philadelphia?

A Yes, sir.

Q In what capacity?

A Generally active.

Q As a leader?

A Yes. He has certainly been one of the leaders.

Q Do Mr. Gore and Mr. Meehan live in the same ward? Or don't you know?

A I didn't think so.

ATTORNEY GENERAL McBRIDE: I don't believe so.

SENATOR YOSKO: That is all I have.

BY SENATOR SCOTT:

Q Summing up, Mayor Dilworth, you were not the District Attorney at the time the prosecution was had on Mr. Gore?

A That is right.

Q You were familiar with the situation?

A That's right.

Q And then you were questioned as to whether or not you opposed the commutation of the sentence?

A Yes.

Q And in your judgment at the time, you felt as though the sentence should not be commuted at that time?

A That's right.

BY MR. KOHN:

Q This case was prosecuted by the Attorney General's office, Mr. Woodside being Attorney General at that time; is that correct?

A Yes.

Q And this letter was written by you on December 9, 1952; is that right?

A That's right.

Q And you knew, of course, that Governor Fine disapproved the recommendation of the Pardon Board immediately after the recommendation was made in January of 1953?

A I am not precisely familiar with the course of events. I remember that three times or more we came up to Harrisburg—or our Assistant District Attorney came up on the matter. I don't remember precisely the dates.

Q Well, in January, after the Board recommended to Governor Fine, the Governor disapproved the recommendation of the Board?

A Yes.

Q And his sentence was from one to three years?

A One to three years.

Q Actually, his sentence was not commuted until he had served ten months; do you know that?

A I think it was eight months and a few days.

SENATOR SCOTT: Was that on a later application?

MR. KOHN: That was on a rehearing.

Governor Fine signed the commutation on 6/12/53, and his sentence started on October 8, 1952.

ATTORNEY GENERAL McBRIDE: That would be slightly over eight months.

BY MR. KOHN:

Q Did you write any other letter besides that on a subsequent hearing, Mr. Dilworth, that you can recall?

A As I say, Mr. Kohn, I don't think this letter was written by me. I think this was prepared by either Mr. Shraager or Mr. Berkowitz.

Q You knew the position that your office took on the matter at the time of the subsequent reconsideration about June of 1953 of this matter?

A Yes.

Q Can you tell us what that position was? What it was at that time?

A It is my recollection, without having seen the file in the District Attorney's office, that we consistently opposed it.

Q Even after he had served that time?

A Yes.

SENATOR SCOTT: Mr. Kohn, what was the reason given by the Board in its recommendation to the Governor that the sentence be commuted?

MR. KOHN: You mean the first time?

SENATOR SCOTT: At the time Governor Fine refused the recommendation; what did the Board say as to its reasoning in suggesting that the commutation be granted?

MR. KOHN: I will read it. "This applicant is 51 years of age. He was never before arrested for any offense. He was convicted of having given perjured testimony in connection with the operation of the Zoning Board of Adjustment in Philadelphia.

"Following this testimony, he was convicted in the Court of Quarter Sessions and sentenced to a term of not less than one year or more than three years.

"At the present time this applicant has served 3½ months of his sentence. Prior to this conviction he had an excellent reputation. In fact, his reputation was of such character that at the time of the hearing before the Board, his neighbors presented a petition which contained the names of over 500 persons, and which requested the Board of Pardons to give favorable consideration to this application.

"The Eastern State Penitentiary has advised the Board of Pardons that this applicant has an excellent institutional record.

"The District Attorney's office of Philadelphia, however, is opposed to the granting of clemency.

"It has often been said that a man's reputation is based on his past conduct and what his neighbors think of him. If such is the case, this applicant certainly bears an excellent reputation in the community in which he lives, and how better can a good reputation serve a man in his time of need? Therefore, in light of the petition which was presented to the Board, and which is made a part of this record, as well as the fact that this applicant has never been arrested before for any offense whatsoever, we recommend that his sentence be commuted."

The sentence at that time was to be commuted from one year to four months. The Attorney General did not vote. Mr. Livengood, Mr. Smith, and Mr. Wood made the recommendation. That was on the 2nd day of March, 1953.

Governor Fine said, "This recommendation on the part of the Board of Pardons is disapproved."

SENATOR YOSKO: Just for a little review, he was sentenced when?

MR. KOHN: October 8, 1952.

SENATOR YOSKO: Then he filed an application for commutation in November of 1952?

MR. KOHN: Filed in November; it was heard in December.

ATORNEY GENERAL McBRIDE: Within a month.

MR. KOHN: They were within a month. They were all listed within a month.

SENATOR YOSKO: Give us the sequence that you have there.

MR. KOHN: The sequence is that it was filed on November 12, 1953. It was heard in December Sessions, 1953, which was the usual term at that time. It has been increased to 60 days since the new order took effect.

SENATOR YOSKO: What was the next step?

MR. KOHN: The next step was, of course, the recommendation, which was made to the Governor, that the sentence be—

CHAIRMAN TOMPKINS: What was the date of the recommendation?

MR. KOHN: I don't know, sir. It says, "January Sessions, 1953." I don't know. I mean it was the following month when it was heard. None of these, and I think that is something you ought to take into consideration, all these recommendations do not bear a date. We have no way of telling.

The Board of Pardons recommended the commutation. The Governor sat on it until the second day of March, 1953, when he disapproved it.

SENATOR YOSKO: Then what happened?

MR. KOHN: Then there was a petition for reargument of the case, and it was heard on—"Defendant again applied on April, '53."

ATTORNEY GENERAL McBRIDE: Any new grounds?

MR. KOHN: I don't know. "—but was refused and granted a reargument." He made a second attempt and was refused again. He was granted a reargument for 5/53. At that time the sentence was commuted to be effective 6/18/53, and he was released then on that petition. The Governor then approved it.

SENATOR YOSKO: And how long after the Pardon Board acted did the Governor approve it?

MR. KOHN: I could not tell you that, Senator Yosko. Probably very shortly after that.

CHAIRMAN TOMPKINS: What Sessions was that argument held in?

MR. KOHN: May, 1953; and the approval was on 6/12/53.

SENATOR YOSKO: After the commutation was approved, there was an application for pardon, wasn't there?

MR. KOHN: That is right. The application for pardon was filed for the December, 1953 Session. That was granted.

SENATOR YOSKO: How long after the Pardon Board recommended it, did the Governor act?

MR. KOHN: That I cannot give you again. This is not dated. I can give you the dates of the warrant, however. That was the 14th day of January, 1955.

SENATOR YOSKO: Just before the Governor went out of office?

MR. KOHN: Yes.

ATTORNEY GENERAL McBRIDE: 13 months?

MR. KOHN: Yes. He sat on it for 13 months.

ATTORNEY GENERAL McBRIDE: You mean the Board sat on it for 13 months?

MR. KOHN: No; the Governor.

ATTORNEY GENERAL McBRIDE: The Board heard it in December of 1953, and the Governor granted it in January, 1955?

MR. KOHN: 1955.

ATTORNEY GENERAL McBRIDE: Just before leaving office?

MR. KOHN: That is right.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Dilworth, was Mr. Gore tried for any other crime, other than the crime of perjury?

A No. The perjury, as far as I recollect, and I say I haven't had an opportunity to see the records, but I am pretty sure that is correct. He was tried simply for perjury.

Q Well, the perjury itself would have indicated that at least he would have been guilty of another crime prior to the committing of perjury?

A Yes.

Q And you say he was not tried on that, or don't you know?

A I am reasonably certain that he was only tried and convicted on the ground of perjury. It may have been something to do with the Statute of Limitations. Mr. Kunzig handled the prosecution of the case. He was a special Deputy Attorney General appointed specifically for the probe, as I recollect, for the Special Grand Jury of 1950.

Q Well, the facts here indicate that he could have been indicted for what other crime?

A Extortion—

SENATOR SCOTT: That is very hypothetical. The fact is that he was not.

CHAIRMAN TOMPKINS: He was not. The fact that he was convicted of perjury does not mean to say that he was perhaps guilty of any other crime.

BY REPRESENTATIVE BELL:

Q Mayor, is this Mr. Kunzig, or was he counsel for the Un-American Activities Committee for the Congress of the United States?

A That's right, Mr. Bell.

BY SENATOR YOSKO:

Q You heard the reasoning of the Pardon Board on the granting of the commutation of the sentence. I don't know whether this is proper or not, but I am going to ask you did you think the reasoning was sound or unsound?

A We opposed it.

BY ATTORNEY GENERAL McBRIDE:

Q. When you say you opposed it and also were asked the question whether you thought he ought to have gone to jail, would you have opposed it had you been of the opinion that he should not have gone to jail?

A Sounds to me like What's My Line.

Q Well, he was in jail and you were saying that he ought not to get out—

SENATOR SCOTT: I thought we established here that the Pardon Board was a Board of mercy and so on.

ATTORNEY GENERAL McBRIDE: That is what I was hoping that we had established.

SENATOR SCOTT: That is what I thought we had. That is not in accord with the question you have asked.

ATTORNEY GENERAL McBRIDE: Yes. The question I have asked was calculated to clear up this one question that Mr. Dilworth was asked, whether he thought that Mr. Gore should not have gone to jail.

SENATOR SCOTT: That is an unfair question to ask of Mr. Dilworth.

ATTORNEY GENERAL McBRIDE: The point is that if he had thought that, he scarcely would have opposed his release from jail. Doesn't that help to clear it up?

CHAIRMAN TOMPKINS: We are getting into another area.

REPRESENTATIVE BELL: Well, if he is an expert, we can talk about the Erie cases, too—

SENATOR SCOTT: Do you want to go in through the back door?

ATTORNEY GENERAL McBRIDE: No. I think it helps to clear it up. But if you don't, it isn't important enough for me to—

SENATOR SCOTT: Wouldn't the reverse be true, that if he did think he should have gone to jail in the first place, but since he served a long enough term, he woudn't have opposed it?

ATTORNEY GENERAL McBRIDE: Then he wouldn't have opposed it.

CHAIRMAN TOMPKINS: Isn't that an inference for the Committee to draw from the facts?

ATTORNEY GENERAL McBRIDE: Even though you are to draw inferences, there is no reason why you cannot have testimony about it.

REPRESENTATIVE BELL: Didn't Mr. Dilworth testify that this action was done by one of his assistants?

ATTORNEY GENERAL McBRIDE: If you are familiar with the Board of Pardons and the District Attorney's office of Philadelphia County, the District Attorney's office does not personally appear at their hearings. He sends his assistant up at every session of the Board of Pardons.

But the statement and policy as to the office, as to whether there shall be opposition is decided by the District Attorney or, as he says, in consulation with the First Assistant. But it is stated by the Assistant in that type of letter, and that is the thing that guides.

CHAIRMAN TOMPKINS: Are there any letters in the file other than what the Mayor has read?

MR. KOHN: No.

BY ATTORNEY GENERAL McBRIDE:

Q Even though the prosecution was had by the Attorney General, was it you who called the facts in the Gore case to the attention of the public?

A It is my recollection, and I think that it was in 1954.

BY SENATOR SCOTT:

Q During a campaign?

A During a campaign.

BY ATTORNEY GENERAL McBRIDE:

Q It didn't turn out to be just campaign talk, though, did it?

A Luckily.

CHAIRMAN TOMPKINS: All right. That is all, Mr. Mayor. Thank you very mhch.

(Witness excused)

. . . KENNETH E. TAYLOR, sworn:

BY SENATOR YOSKO:

Q Mr. Taylor, you testified here last Monday, did you not?

A That's right.

Q And after the hearing, there was a story written on the testimony that was taken here, whish appeared in the Philadelphia Inquirer on Tuesday morning, April 23. I quote from the paper. It says, "At Graterford, Joseph Rock, Secretary to Warden David M. Meyers, refused to divulge information on Darcy other than the fact that he was sent there from the Classification Center at Eastern Penitentiary on September 18. Rock said Graterford officials were under orders to withhold information on prisoners unless otherwise directed by Commissioner Tracy. What can you tell us about that?

A Sir, I think that, while they would probably be a little bit scared because of this investigation, they are not under orders that they should not cooperate with the papers in giving information. The Commissioner has asked that, on a matter of policy, the wardens check with him before any special information is given out. However, I would like to point out an incident that happened just about two months ago, which I think will refute this.

Down at the Eastern Penitentiary, the inmates had a press conference, and all of the Philadelphia papers were invited. Inmates were in there without any officers or guards or any of the professional people from the institution, and they were allowed to talk with the press on any problems that they wanted to discuss. I know that at least three of the Philadelphia papers were present at that time.

As far as I know, there is no other institution in the United States that would allow something like that without somebody from the institution being present, and that certainly will refute, I feel, any implication that the Commissioner has said that we don't want information about prisoners to be given out. His point is to give them information.

Q Did you read this story?

A. Yes, sir, I did, this morning.

Q Did you make any inquiries from officials at the prison as to what information the newspapers wanted?

A. No, sir, I didn't. We are having a conference next Monday and we are going to definitely check into it then. The Commissioner is away today. There has been a death in his family, and I didn't feel that I should do that checking now; but I know that it will be taken up at the warden's conference on Monday.

Q What will be taken up?

A This matter of these people, at least according to the paper, refusing information to the papers. It certainly will be discussed.

Q Do you have the file here on Darcy, Zeitz and Foster?

A No, sir. We turned our files over to the Committee.

Q Which committee?

A To your Committee. There is quite a file.

Q So that whatever information the paper wanted from the warden is available here in the files of the Pardon Board?

A That's right.

MR. KOHN: Wait a minute. I don't agree with that.

BY CHAIRMAN TOMPKINS:

Q We have everything up until the time of the commutation, but do we have the files since that time?

A Yes, sir, you do. You would not have, let us say, job changes for the last two weeks or information like that.

Q How about information like the reason these men were separated?

A That's right.

ATTORNEY GENERAL McBRIDE: Mr. Chairman, I have not seen them, but it is a fact that Mr. Kohn called me and asked me if I would arrange through the Commissioner that all files on the case in the hands of any prison anywhere be made available to the Committee. I directed the Commissioner to make those files available, and they have been assembled in the office of the Board of Pardons and have been completely available to the Committee at all times. I myself have not even examined them.

THE WITNESS: I brought them over.

The classification summaries are here on all of them. I gave them to Mr. Hean.

ATTORNEY GENERAL McBRIDE: If you want to have them brought down, Dr. Taylor could look at them and enlighten you on them.

SENATOR YOSKO: I just want to read one more paragraph here.

The sub-heading is, "More Publicity. At the office of William J. Bandmiller, warden at Eastern Penitentiary, information on Zeitz and Foster also was refused for the same reason."

Now, when I read that, it sort of threw a cloud, a suspicion, on withholding of information on the classification and assignment of these prisoners to the jails that they were in; and I thought it was only fair to remove that cloud by producing records here so that this Committee could look at them and ask such questions in connection with them as might be deemed necessary.

I also understand that some individual wrote letters or complaints on withholding of information in connection with this case, and the assignment of prisoners; and I would like, for one, to see that cleared up.

For that reason I suggest that you bring those files in so that we can take a look at them and ask such questions as we deem necessary.

THE WITNESS: Yes, sir, he will get them.

SENATOR YOSKO: Turn them over to the newspapermen and have them take a look at them.

ATTORNEY GENERAL McBRIDE: Senator, I have just asked Mr. Hean to go and get them immediately and bring them down to the room, and you can look at anything we have.

CHAIRMAN TOMPKINS: Why don't we do this, then? I have gone through many files up there. They covered such a volume, and I do not know whether I got to read all of them. Why don't we let Mr. Taylor go through those records and then we can recall him.

ATTORNEY GENERAL McBRIDE: That is a good idea.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Taylor, who assigned Darcy to Graterford Prison?

A I was partially responsible for that I have the final say on all transfers in the State.

If I may, I would like to take about five minutes and perhaps clear up some misunderstanding that apparently arose after I testified here last Monday.

The institutions at Pittsburgh and Philadelphia are what we consider maximum and medium institutions. That is the Eastern and Western State Penitentiaries. Western can hold approximately a thousand men, and Eastern about eight hundred. That is exclusive of the Diagnostic Centers. We do not in this State have anywhere near 1800 maximum security cases. So that at both Eastern and Western we have many, what we consider, medium security cases.

At Graterford we have 2000 individuals, and that institution holds medium and minimum security cases. They have at the present time approximately 200 to 300 at Graterford who work on the farm, and we consider them as minimum security. There are about 1700 there that are medium security. So that we would have perhaps at Western 700 or 800 medium security; about 1700 at Graterford; and perhaps 500 or 600 at Eastern.

When these three men were classified at the Eastern center, following their commutations, all three of them were classified as medium security. That meant that they could not go to Rockview because that is only minimum security; but we could send them to Western, to Eastern, or to Graterford, because all three institutions had medium security cases.

Normally, we do not transfer them from one end of the State to the other, unless there is a good reason for it.

BY MR. KOHN:

Q. What is this, now?

A I say normally we do not transfer from one end of the State to the other.

Q Let me ask you, if I may interrupt you, is there any law against your transferring them?

A No, sir, there isn't any law.

Q In other words, if you want to send a man from Eastern Penitentiary to Western, there is no legal entanglement?

A No, sir. In fact, we do it.

I can think of one case particularly, a notorious group in Philadelphia, the Philadelphia area, called the Green Street Counts; and we broke that group up. We sent some of them to Western; some to Graterford; and kept some at Eastern. But in this case we didn't feel it was necessary to transfer one or more of these members over 300 miles to Western. We did feel, however, and the Diagnostic Center made the recommendation, that one of the members at least be transferred to Graterford, in the medium security capacity, and Darcy was the one that was selected. There was absolutely no outside interference of any kind. I was not contacted by anybody; neither was anybody down at the Diagnostic Center. And I think that perhaps there had been the impression that Darcy was given special consideration in being sent to

Graterford. Actually, among prisoners, it is not considered a country club. Most of our prisoners would prefer not to go there, and I have in my files over in the office perhaps—oh, I could easily get 300 letters from inmates and from relatives of inmates asking that people who are at Graterford be transferred to Eastern, or people who were at Eastern not be transferred to Graterford, even though, from the Bureau of Corrections' standpoint, it is a medium and minimum institution.

Now, part of that, I am sure, stems from the fact that Graterford is a little difficult to reach for relatives. At Eastern they can get into a streetcar or bus and they can visit. But, for people in Philadelphia to get to Graterford—and many of our inmates come from poorer families, and they do not have cars; if they had cars there would be no trouble—but they usually have to take a train from Philadelphia to Norristown; they take a bus from Norristown to Collegeville; they take a taxi from Collegeville out to the institution.

I do not know of any cases offhand of individuals who have asked to go from Eastern to Graterford. The prisoners just dont ask for it. But we do have many of them the other way around.

In Darcy's case, he let it be known at the time that he was being classified that he preferred to remain at Eastern; but it was a clinic suggestion, and I went along with them, that he be transferred to Graterford. The other two men also asked to remain at Eastern, and they are still there.

Q This newspaper article indicates that Darcy was given preferential treatment by being sent to Graterford. Would you consider his assignment to Graterford as preferential treatment?

A No, sir, I would not. I would say that it perhaps could be considered a break for him eventually, in maybe 10, 15 or 18 years from now, when they might consider him to work outside the wall. We do have two men up at Graterford, lifers, who now work outside the walls; but as far as the present time is concerned, it was pretty much an academic decision as to which one of them would go to Graterford. But we did feel it was well to split them, and I would not consider it preferential. I would say this, that the prisoners, if you would ask those of them, they would say that Darcy made out the worst of the three of them because he was transferred up there.

BY CHAIRMAN TOMPKINS:

Q Mr. Taylor, when you speak of Darcy being given a break because of the probable future of getting outside the prison walls to work, do they get outside the prison walls to work at Eastern?

A There are about 5 or 6 people who clean the sidewalks and take care of the little bit of grass we have around the institution. Outside of that, none of them.

Q Would you consider Zeitz and Foster to have an equal break as far as their future?

A They would have this break in that in the future, we could transfer them to Graterford. That does happen. In other words, we do make transfers from Eastern to Graterford. Right now Graterford is filled. We are not making too many transfers.

Q You have no present plans for Zeitz or Foster?

A No.

Q You have no present plans to put Mr. Darcy outside the walls?

A Oh, heavens, no. There are only two men that have life sentences that work outside, and they have been in 15 years.

BY SENATOR YOSKO:

Q For my own information as a member of this Committee and for the Committee and for the public generally, the headline here is, "Killer Darcy shifted to Soft Graterford." Is Graterford considered soft? And what is the difference between being confined to Graterford so far as prison routine and confinement and duties and all the other things that a prisoner is subjected to are concerned? What is the difference between those rules and regulations at Graterford and the Eastern Penitentiary?

A As far as basic rules and regulations are concerned, there isn't too much difference between a medium, minimum and maximum. In other words, they all get visits. They get newspapers and radio. For those few privileges —at Graterford we have a little more problem, or we have a more difficult problem in controlling. We have 2000 inmates up there. We have only 5 blocks, which means that we have 400 men on each block; and of necessity, they are stricter up there in marching to meals and things like that. I mean they keep closer control on them. If 400 men get out of—if we had difficulty with 400 men it would be pretty hard to handle.

On the other hand, the institution is broken up into many smaller blocks at Eastern, which house anywhere from 30 to 70 on a block, and the officers get to know the men, of course, better when you have a small group like that, and they are not quite as rigid when it comes time to—well, just in general. They are not quite as rigid because it is easier to control a much smaller group than it is a large group.

So by an large, I would say the control problem and the amount of regimentation at Graterford is greater than it is at Eastern, and the inmates regard it as such. As I say, I have hundreds of letters from fellows who would like to get out of Graterford.

Q Would you say that that was an erroneous description of confinement at Graterford?

A Yes, it is. We don't consider it soft.

Perhaps the only advantage that I can see there is that there is a large, a much larger recreation yard there. There is a lot more space inside the institution. It is a newer institution by a hundred years. It is newer than the old Eastern Penitentiary, and, of course, we do have a farm and eventually some of these men work outside the walls.

On the other hand, other than that, I see no advantages to being at Graterford over being at Eastern; but it is certainly not a country club. It is out in the country, but it is still a prison.

BY CHAIRMAN TOMPKINS:

Q How about your accomodations in the two? Hasn't Eastern Penitentiary at times been referred to as a dungeon?

A Yes, sir. You very frequently hear it referred to as a dungeon. Actually, the cells are what we call inside cells, and they come off a corridor somewhat like the spokes on a wheel; and many of these do not have—they cannot look outside that cell.

At Graterford the cells are arranged in blocks, so that the man does have a window to the outside. In that respect, the cells would be nicer at Graterford.

The cells, however, at Eastern, are larger, and we are doing some work on them the last couple of years. They are in better shape now than they had been.

Q How about their sleeping accommodations? Is there any difference?

A They are the same in both institutions.

Q Do they have a radio in one and not the other? Do they have any television in one and not the other?

A No, sir. In fact, at Graterford, they do have TV in the blocks. The men have pitched in out of their commissary and they have TV in two of the blocks; and they are allowed two hours at night when they can go out of the block and watch TV.

Up to this moment they do not have television down at Eastern—well, they had them for the World Series last year, but eventually, using their own funds, they will probably have TV sets down there, too.

BY REPRESENTATIVE BELL:

Q Do they both have recreation halls?

A No, sir. They do not have a gym in either place.

Q Do they have an auditorium?

A They have an auditorium. They have a much larger auditorium at Graterford, but they both do have an auditorium and they do have movies once a week.

Q Do you bring outside shows like choruses and things like that?

A Not too often.

Q But you do?

A They do on occasions.

Q Do they bring them in at Eastern Penitentiary and also at Graterford? Or just Graterford?

A Both places.

Q How do the kitchen facilities compare between the two institutions?

A I would say there wouldn't be any real difference as far as the quality and quantity of food are concerned.

Q Are both kitchens modern?

A Yes, sir. The one at Eastern has just been modernized. They have just put in a new-type kitchen. They have started baking their own bread there within the last couple of months.

Q How about the plumbing and bathing facilities?

A We now have a contract to put hot water in the cells at Eastern. They do not have hot water in there now for shaving and so on.

BY CHAIRMAN TOMPKINS:

Q Does Graterford have that?

A Yes, sir. The way they have it at Eastern, one of the men comes around with a bucket of water and he pours the water through the cell door into a cup, and they use that for shaving.

BY REPRESENTATIVE BELL:

Q Is there an inside recreation area at Eastern that would be covered with grass?

A There is very little grass at Eastern.

Q Is there grass at Graterford?

A Not in the recreation field; but there is some in some of the other parts.

ATTORNEY GENERAL McBRIDE: It makes it worse when you can't get to it.

BY REPRESENTATIVE BELL:

Q While General McBride is getting to it, when would Darcy become eligible for either a commutation or pardon, so that he is turned loose on the street as a free man?

A As I understand it, he could apply now if he wanted to. The only rule is that if a man is turned down, then he must wait another year before he can apply again. There is no time limitation on any man as to when he may apply; but of course, it would be rather foolish for him to apply at this point.

Q At this point, yes; but how is his prison record? Are you familiar with it?

A All I know, sir, is that there haven't been any complaints about any of the three. There have been no complaints about them.

Q Of course, I am not going to ask you the next logical question, which I don't think is fair, which would be what would be your recommendation. But I won't ask that—

ATTORNEY GENERAL McBRIDE: I think it is fair, Mr. Bell.

THE WITNESS: I will be glad to answer it.

ATTORNEY GENERAL McBRIDE: That is, if he did apply, what would be your recommendation?

BY REPRESENTATIVE BELL:

Q If Mr. Darcy applied today for a commutation or pardon on his prison record today, on his rehabilitation program, are you free to give us what the recommendation would be—

A Of the staff? The staff at each institution makes a recommendation; but judging from other lifers, the answer would definitely be no at this time, because they would say, "We have not had nearly enough time to really know this fellow."

Q Then, when would he be well enough known to go?

A That depends on the individual. I have known of cases where men have been in an institution for thirty years and have not been recommended just because the institution thought that they should not be back on the street.

Q Do you know of any who have been released, any lifers, after receiving, say, nine years?

A I haven't known any personally, but I know there have been a few down at Eastern who have gone out in nine or ten years. Most of them do somewhere between 15 and 25.

Of course, we have some lifers who have served more than that and are still not out.

CHAIRMAN TOMPKINS: I think, Mr. Bell, we have

asked for information from Mr. Hean. I don't know whether he has it compiled or not.

ATTORNEY GENERAL McBRIDE: He has it here.

CHAIRMAN TOMPKINS: You mean since 1915, those who have been under sentence of death and had their sentence commuted to life and whether they were further commuted from that life sentence?

ATTORNEY GENERAL McBRIDE: I have just been handed the paper by Mr. Hean. There are 80 in that period who were commuted from death to life. Of that 80, 37 were commuted to life on parole; 4 were pardoned.

The number of persons sentenced to death from January 1, 1915, to January 1, 1957, appear to be 443. I would say that the 443 group would include the 80. It would be 443 minus 80, or approximately 363 who did go to their death.

REPRESENTATIVE BELL: General, would you repeat those who had their death sentences commuted?

ATTORNEY GENERAL McBRIDE: From death to life since 1915?

MR. KOHN: Yes, sir.

REPRESENTATIVE BELL: Yes, sir.

ATTORNEY GENERAL McBRIDE: 80.

REPRESENTATIVE BELL: And of those, 37 plus 4, or 41, eventually got out on the streets again?

ATTORNEY GENERAL McBRIDE: Yes, after some expiration of a number of years, whether it was 15, 25, or whatever it was; and I would like to add that we once, in connection with the Philadelphia Bar Association, looked up the question of how many later committed a capital offense. I think there was only one since 1915—

MR. KOHN: Is there any report on that? I heard differently.

ATTORNEY GENERAL McBRIDE: The only one I know of is a man named Maloney.

MR. KOHN: Who made the report on that?

ATTORNEY GENERAL McBRIDE: We checked it a few years ago. I don't have it officially.

CHAIRMAN TOMPKINS: Is that only for Philadelphia or is it for the State at large?

ATTORNEY GENERAL McBRIDE: It is for the entire Commonwealth of Pennsylvania.

Do you know of any men who, having been committed to life in prison and having their sentence commuted to life on parole, have subsequently committed another murder?

MR. HEAN: I am not too clear, but there was a man by the name of Blackie Supowski.

ATTORNEY GENERAL McBRIDE: That was not a commutation for life—

MR. HEAN: Maloney.

ATTORNEY GENERAL McBRIDE: Maloney was the only one I know of. Supowski was a man who received a sentence of 50 to 100 years for a series of robberies. He was commuted and then later was sentenced to death and put to death in New Jersey for a subsequent crime.

CHAIRMAN TOMPKINS: He wasn't originally in this classification?

ATTORNEY GENERAL McBRIDE: That is right. The only one I know of was a Delaware County case with which Mr. Bell will be familiar. It was a killing of a man in a taproom in Delaware County about 6 or 7 or 8 years ago, and he had been in a group in which he had gotten life in prison. He was later commuted to life on parole, and while on parole, participated in a holdup in which another man killed the owner or bartender of this taproom, and he was executed.

But in the whole range of Pennsylvania history, since 1915, he is the only one that I know of. I understand that prior to 1915 there was another man. I believe his name was Epps, and I think he committed a second crime.

REPRESENTATIVE BELL: Well, this that you are telling us, would that apply to their committing a second killing any place in the United States, or just in Pennsylvania?

ATTORNEY GENERAL McBRIDE: So far as I know, any place in the United States.

REPRESENTATIVE BELL: But the records would not be complete, would they?

ATTORNEY GENERAL McBRIDE: No. This last volunteered information from me was as the result of what we studied a few years ago. I have no official information other than that.

MR. KOHN: Can you give us any information on how many lifers that are let out committed felonies?

ATTORNEY GENERAL McBRIDE: I have no information other than that.

MR. KOHN: In other words, they restricted their studies strictly to the ones that committed murder?

ATTORNEY GENERAL McBRIDE: Yes. What we were concerned with was a debate on capital punishment that took place in the Philadelphia Bar Association. I have no figures as to whether they committed another offense, but I am sure that Dr. Taylor would agree that the rate of recidivism for very obvious reasons among the lifers who are released to life on parole is the lowest of all possible kinds of prison release; and the obvious reason is that they know that if they commit another offense the penalty is to go back to jail for life, with very little chance of subsequent parole.

CHAIRMAN TOMPKINS. Is that going to be submitted to the Committee, General?

ATTORNEY GENERAL McBRIDE: Yes.

CHAIRMAN TOMPKINS: We don't want to incorporate it as part of the record.

ATTORNEY GENERAL McBRIDE: Do you want to mark it?

CHAIRMAN TOMPKINS: We will just attach it as an exhibit and not as part of the record.

ATTORNEY GENERAL McBRIDE: I will make this part of the record. It gives not only the date of the case and the action, but it gives the name of every single man. It is a two-page memorandum and includes Darcy, Foster and Zeitz, along with the date of the first action of the Board commuting.

(Listing of capital cases that have come before the Board of Pardons from 1915 to date marked for identification and received as C-39.)

BY ATTORNEY GENERAL McBRIDE:

Q So that the short of it, Dr. Taylor, is that this was not done at Darcy's request?

A No, sir. In fact, Darcy had requested that he remain at Eastern.

Q He did request that he remain at Eastern?

A Yes. So that if we did give in to him, he would have remained at Eastern. In fact, all three of them would have remained at Eastern.

Q So the words "maximum security," is there any such thing as so-called maximum security except with relation to a very few prisoners who are particularly risky?

A Yes, sir. I am afraid that all too often those who do not work in prisons get the wrong impression by what we mean by maximum security. When we speak of maximum security, we are not thinking in terms of how escape-proof is a jail. We are thinking in terms of how much checking you have to do on these people; and it could be medical; it could be custodial; it could be psychiatric. It is people you have to keep an eye on most of the time. Two years ago we were thinking in terms of having a separate institution for just—

MR. KOHN: Will you just answer the question.

ATTORNEY GENERAL McBRIDE: I think he is answering the question.

MR. KOHN: All right.

ATTORNEY GENERAL McBRIDE: It won't take him long. Why not dispel any illusions if they exist?

A (continued) But we were thinking at that time in terms of setting up a small unit to handle the really incorrigible. I went around and discussed it with every warden and every staff; and out of some 300 inmates we had at that time, we came up with 17 that we would have had as maximum cases. So it is not really the large group that people think it is. That is why these people are considered medium rather than maximum.

BY CHAIRMAN TOMPKINS:

Q What is your record of escapes from these prisons?

A The escape rate in Pennsylvania is very low. Two years ago we only had three out of all of our institutions. This year I think we have something like eight thus far, and most of the people walk away or get out of Rockview, where we—

Q They are out in the fields, working, and they just walk away?

A Except the last six that got out of there. They either went out of the fence we had or sawed their way out. There are about 500 or 600 that could walk away anytime they want. But this last six that left, actually, they went over the fence. Since it is minimum security, we don't use any fire arms up there. The last three that got away, had they had fire arms, they could have shot them pretty easily. But with minimum security, we don't use the firearms.

BY ATTORNEY GENERAL McBRIDE:

Q Were they recaptured?

A Yes, sir, they were recaptured the next day. Since the Bureau of Corrections started, there are only two men who escaped that have not been recaptured.

Q Was that Denuto and Sutton?

A No, sir. That was quite a while ago.

(discussion off-the-record)

SENATOR YOSKO: It is difficult for me to say exactly what we want. Let me suggest to Joe Miller from the Inquirer, since the question we are discussing was incorporated in the story, what information would you like to have in connection with it?

MR. MILLER: You talk to the editors; don't talk to me. I don't ask the question.

SENATOR YOSKO: What information do the records contain?

THE WITNESS: Well, there is a great deal of information there. That would be any previous criminal record they had; story of the present crime; social background, past work history; educational history; religious history; medical examination; psychiatric examination; and psychological examination.

All of that is sent to the clerk of the court at the committing county. Normally we do not give that information to the newspapers. A lot of that is very personal information and it does go to every court. I mean we normally do not discuss prisoner's relatives and so on for publication.

BY SENATOR YOSKO:

Q If Mr. Miller calls his editor and finds out exactly what information is desired or was desired at the time the telephone calls were made to both prisons, we will be glad to have Mr. Taylor produce the records and give him that information; is that right?

A Yes, sir, I would be glad to get it for him.

BY CHAIRMAN TOMPKINS:

Q Is there any particular reason why Zeitz shouldn't have been sent to Graterford, and Darcy and Foster kept at Eastern State Penitentiary or any other division?

A No, sir. That was purely academic. It is one of these things that we felt, with the group up there at Graterford, with 2000, things would die off a lot faster than if we kept all three together.

Q What I am getting at is whether there is any reason why the other two could not have been sent out to Graterford rather than Darcy.

A Or we could have split one out to Pittsburgh. Since all three had the medium classification, they could have gone to any one of the three places. But if Mr. Miller will tell us what he wants, I will be glad to get the information for him.

SENATOR YOSKO: That is my only interest in it.

MR. MILLER: What?

SENATOR YOSKO: That is my only interest in it.

SENATOR SCOTT: Then, if it is understood that if Mr. Miller's editor wants to call you and get some information, you will cooperate with him and you will guarantee that they will get the information?

THE WITNESS: They have always had that right.

SENATOR SCOTT: This paper says that the officials were under orders to withhold the information.

THE WITNESS: I think they were just a little scared about the whole situation.

BY SENATOR SCOTT:

Q You don't deny that that could have happened?

A It could have happened.

Q Did they give them the information?

A I will tell you that at the wardens' hearing tomorrow—

Q All right. It is understood now that they will give any information that is desired?

ATTORNEY GENERAL McBRIDE: Sure. I think these men may have come to the conclusion that it was their duty to speak to the Legislative Committee through the Commissioner and Deputy Commissioner rather than sounding off through the newspapers. It probably amounted to no more than that. Certainly there is no disposition for anybody to issue an order that is going to make the prisons not susceptible to public opinion. It would be an outrage if prisons were run in such a way that public opinion could make or play no part in seeing to it that they were run properly, any more than any other public business.

THE WITNESS: The Commissioner's orders are just the opposite from that, that every courtesy will be shown. I know of many cases where the newspapermen had been in the institution.

ATTORNEY GENERAL McBRIDE: This is the entire record that ever existed in any institution from the time these men were arrested. This contains all the information which I directed the Commissioner to have the wardens send to Harrisburg to be made available to this Committee and its counsel.

SENATOR SCOTT: And it was brought down here, General McBride, at the time we were on the discussion of the question which Senator Yosko asked?

ATTORNEY GENERAL McBRIDE: I think that it must have been here six weeks or more.

SENATOR SCOTT: I mean the Committee room.

ATTORNEY GENERAL McBRIDE: Yes; but it has been available, and, as Mr. Kohn says, he looked at that—

MR. KOHN: We agree to that. It is all there.

CHAIRMAN TOMPKINS: I don't know if I had the right section or not—

ATTORNEY GENERAL McBRIDE: Even the Committee papers are here.

CHAIRMAN TOMPKINS: General, maybe I didn't hit the right spots in there; maybe I didn't go far enough; but I was looking through there several nights to try to find the report of Warden Baldi, but I wasn't able to find it.

ATTORNEY GENERAL McBRIDE: If you want Dr. Taylor to do it, he is here and will go through it right now and get anything you want. Please, just tell us what you want, because we don't want any dangling questions.

CHAIRMAN TOMPKINS: That is all. Thank you.

(witness excused)

MR. KOHN: I would like to call the case of Thomas Wheatley, Sr., 82853, December Session, 1954.

This defendant was sentenced from 3½ to 7 years; received a fine of $1,000 on prosecution of two Bills of Indictment, covering the same offenses.

He started to serve his sentence—

SENATOR YOSKO: Mr. Kohn, did you say that Mr. Nissley is here?

MR. KOHN: Yes.

SENATOR YOSKO: Was Mr. Nissley the Secretary of the Pardon Board at the time?

MR. KOHN: Yes.

SENATOR YOSKO: May I suggest to you that you have Mr. Nissley take the stand and testify on this case just as Mr. HEAN testified in the other cases.

MR. KOHN: I would be very glad to, if you want to do that.

SENATOR YOSKO: He is probably familiar with the file—

MR. KOHN: He hasn't prepared this file.

SENATOR YOSKO: Maybe you can conduct the examination just as you did in the other cases.

MR. KOHN: I would be glad to do that.

SENATOR YOSKO: We will follow through on it as soon as you get through.

MR. KOHN: All right. I was trying to save you a little time.

. . . JOSEPH NISSLEY, former Secretary of the Pardons Board, sworn:

BY MR. KOHN:

Q Your full name?

A. Joseph Nissley.

Q And you were the Secretary of the Board of Pardons until when?

A April of 1955.

Q When did you go into office?

A April of 1945.

Q And you were Secretary when this case that I just called to your attention was up before the Board of Pardons?

A Yes, sir.

Q What was the number of this case?

A 82853.

Q What was the crime with which this defendant was charged?

A Assault and battery with intent to kill.

Q What was his sentence?

A 3½ to 7 years; a thousand dollars fine.

Q What was the name of the judge that gave the sentence to him?

A Judge Satterthwaite.

Q Do you know the name of the District Attorney that tried the case?

A Williard Curtin.

Q Do you know when the application for the commutation came into the office?

A It came in on November 12, 1954.

Q What month was it listed for hearing?

A December.

Q Is that the usual procedure? Was there any special listing on this case?

A No, sir.

Q When did the Board consider the matter?

A On December 14, 1954.

Q When was the recommendation of the Board made?

A Well, I would have to have the minutes of the Board to know exactly when that was made.

Q We don't have those here.

A We usually consider the cases immediately after the session of the day in which they were heard.

Q The rule at that particular time was that if it was applied for in one month, it was heard the next month; is that correct?

A. Yes.

Q That rule has been changed now, so that when they apply in one month, it isn't heard before two months.

A I haven't had any connection with the Board since then.

Q Will you tell me whether the District Attorney opposed this commutation?

A My records indicate that he thought it was premature.

Q Do you know whether Judge Satterthwaite opposed the commutation?

A According to the records, he was opposed to it.

Q Will you check the letters in the file to see if there are letters from Judge Satterthwaite here?

A There are letters from Judge Satterthwaite and they are opposed.

Q Will you please read Judge Satterthwaite's letter into the record, pleas?

A (reading)

"Board of Pardons
Department of Justice
Harrisburg, Pa.

In Re: Application of Thomas Wheatley, Sr., for Commutation.

Dear Sirs:

"I have your letter of November 16 enclosing a copy of the application of the above for commutation of his minimum sentence so that he might apply for parole.

"I have not reread the notes of testimony in this case. The version of the offense given by the applicant apparently was not believed by the jury and is to a great extent not in accord with my recollection of the facts.

"I do happen to know that the civil settlement of $20,000 mentioned in Paragraph 17 of the application was agreed upon at the time the suit was called for trial, inasmuch as I participated in the final arrangement of that settlement. Whether the amount was actually paid, however, I have no knowledge.

"My views in this case are fully set forth in the opinion of the court in disposing of Mr. Wheatley's application for a new trial, a copy of which I enclose against the possibility that your file does not contain it.

"In view of the serious nature of the charge against this man, particularly since a state police officer was the victim, I personally would be inclined to oppose any application for communtation at this time. So far as he is concerned, the situation is exactly the same except for the fact that the victim is still living, as it would have been if he had been indicted for murder if the victim would have died. In my opinion this would have been a capital case.

"I am not in a position to give you any information regarding the further allegations of Paragraph 17 of the application with respect to applicant's financial and family situation at the present time.

"Very truly yours,

EDWIN H. SATTERTHWAITE."

Q Do you know whether the District Attorney sent a letter in on this case?

A He did.

Q Will you read that letter, please?

A (reading)

"December 1, 1954.

Hon. Joseph Nissley, Secretary
Department of Justice
Board of Pardons
Harrisburg, Pa.

Re: Com. vs. Thomas Wheatley, Sr.
Dear Sir:

"I am informed that Hon. Edwin H. Satterthwaite wrote a rather extensive letter to the Board in this matter. The views of our office are in accord with his views. We feel that the Board should consider rather carefully the Commonwealth's evidence and particularly that of Officer Caldarelli, which is at rather great divergence from the version given in Paragraph 15 (a) of the application. Although Mr. Wheatley insists that he is innocent of the crime, all of the matters were very capably urged to the Jury, and the Jury quite properly brought in a verdict of guilty.

"Our office also believes that the Court did not give a heavy sentence in view of the extreme seriousness of the charges and that the Court took into consideration the difficult family situation that would be created by placing the Defendant in jail.

"In any event, we feel that the present application is premature and that it should not be granted.

"Very truly yours,

DONALD W. VANARTSDALEN."

Q Will you tell us who counsel was for the applicant?

A Robert C. Duffy, Esquire, 1224 Lincoln Liberty Building, Philadelphia, Pennsylvania.

Q Do you know whether or not Paul J. Brenan, the President of the Bucks County Chiefs of Police Association, sent a telegram in on this case?

A He did; but I don't think this was received until after the Board action. In fact, the telegram indicates that it was received on January 24, 1955, a month after the Board acted.

Q It was after the Board's action. All right. Will you read the telegram, please.

A (reading)

"Chairman Penna. Board of Pardons
Harrisburg, Penna.

"Bucks County Chiefs of Police Association wish to go on record as opposing the action of the State Pardons Board in recommending the commutation of the sentences Thomas M. Wheatley, Sr., and likewise the approval of former Governor John S. Fine last week. The viscious premeditated action of Wheatley in shooting state trooper Calderelli is particularly distressing to police attempting to protect people of the Commonwealth when such clemency is shown this action should be an incentive to depraved criminal to continue their nefarious deeds and shoot police officers at will. We respectfully urge that everything in your power be done to at least have

Wheatley serve his minimum sentence of 3½ years.
"Paul J. Brenan, President Bucks County Chiefs of Police Association."

Q Will you read the statements of fact in the application?

A (reading)

"Commonwealth's version was that on May 30, 1953, about 10 minutes after 1:00, an accident occurred on Route U. S. 1 near Langhorne, Pennsylvania. Applicant and his son arrived upon the scene shortly after the accident in a wrecker and tried to get the business of removing the car involved. As soon as the State Police arrived, Officer Caldarelli ordered applicant and his son to remove their wrecker and to leave the scene because they were visibly intoxicated. An argument followed between applicant's son and Officer Caldarelli in which Officer Caldarelli ended up by striking applicant's son over the head with his flashlight causing him to fall to the ground with Officer Caldarelli on top. Applicant was about four feet away from the scene. When they removed applicant's son to the police car on the charge of disorderly conduct, applicant disappeared. He returned approximately five minutes later. Applicant called to Officer Caldarelli to come over to him, that he wanted to talk with him. When Officer Caldarelli was about four feet from applicant, somebody suggested to Officer Caldarelli that applicant may have a gun. Officer Caldarelli noticed that applicant was carrying what appeared to be a gun and lunged for it. As he did so, he was struck in the stomach by a bullet. He fell against applicant momentarily, grasping the gun and then fell backwards. As he lay on the ground several more shots were fired and he was hit on the leg in addition. Officer Caldarelli then fired three shots at applicant who fell to the ground and then fled. Applicant, however, denies that he or his son were visibly intoxicated and testified that as soon as the State Police came on the scene, they ordered applicant and his son away. Officer Caldarelli then started to abuse his son and struck him viciously several times on the head causing a deep wound. When applicant tried to separate the two, another officer restrained him, saying that if he was not careful he would get the same. Applicant then was ordered to remove his wrecker again, and did so. He returned to the scene to find out what had happened to his son because his son was apparently dragged unconscious to the policeman's car. As applicant left his own car, he brought with him a gun in a holster which he had left in his car three or four days earlier from a hunting trip. Applicant took the gun with him because he didn't know what might happen and whether they might do the same thing to him. He saw Officer Caldarelli and asked him to come over, with the intention of finding out what had happened to his son. When Officer Caldarelli was about four feet away he made a lunge for his gun which was secured in a holster around his hip. When Officer Caldarelli grabbed the holster, the gun went off. Applicant did not shoot Officer Caldarelli nor did he intend to do so. When Officer Caldarelli fell to the ground, shots started to ring out around applicant and he fled for his life."

Q Did the applicant have any previous criminal record?

A This shows that in 1933 he was arrested on a technical charge of manslaughter in New Jersey; held under $3,000 bail; and discharged as not guilty.

Q Any other records?

A That is all.

Q Do you know what connection Robert Duffy had with any political organization at the time he filed this application?

A No, I don't I think he later became City Chairman, Republican City Chairman in Philadelphia.

Q At the time?

A I don't know that he had any at that time.

Q Tell us whether or not the Board recommended that a commutation be granted in this case.

A Well, yes, because here is the commutation charter.

Q Was Mr. Duffy a practicing attorney?

A Yes, sir.

Q I don't know whether he argued this. Do you know whether he argued this before the Board?

A Yes, sir.

Q At that time did he inform the Board that $20,000 had been paid in civil settlement of the damages?

A Yes, sir.

Q What was the recommendation of the Board?

A That the sentence be commuted to one year.

Q And the Governor approved that recommendation?

A Yes, sir.

Q What is the date of the warrant?

A January 14, 1955. The usual practice while I was there, the last session in which the Governor was leaving office, he always cleaned up everything from his administration.

Q When was the report received by the Governor?

A This was in the September Session.

Q This was just about two or three weeks later?

A It takes about two or three weeks to get the papers prepared and have all the members of the Board sign them.

Q What correspondence is there in the file with regard to the attitude of the Board of Parole on this matter after the recommendations by the Pardons Board and the signature by the Governor?

A Well, there is a letter here from the Board of Parole.

Q Will you read that into the record?

A It is addressed to me as Secretary, Board of Pardons; Re: Thomas Wheatley, Senior—

Q What is the date?

A March 2, 1955.

BY CHAIRMAN TOMPKINS:

Q That was after the commutation had been granted?

A Yes, sir; and it was received by us on March 3.

And "Joseph Nissley, Esquire
Secretary, Board of Pardons
Department of Justice
State Capitol
Harrisburg, Pennsylvania

Re: Thomas Wheatley, Sr.
SPG No. E-4309
Parole No. 1255-E

Dear Mr. Nissley:

"This will acknowledge receipt of your February 28, 1955 letter, wherein you advise that the Board of Pardons accepts the recommendation of the Board of Parole in the action taken to refuse release for subject at this time.

"Your letter was brought to the attention of the Board Members yesterday and the Secretary was instructed to write further, clarifying its position in cases of this nature.

"After carefully reading the letter addressed to you as the Secretary of the Board of Pardons in which the Board of Parole set forth its reasons for refusing parole to Thomas Wheatley, we are unable to find anything therein which would indicate that this Board believed that the Board of Pardons should not feel 'free to act upon any case, according to its merits.' As a matter of fact, we believe that to be the duty of your Board.

"We do not find any indication in our handling of this case that would show that the Board of Parole felt that the Board of Pardons should 'surrender any of the prerogatives or authority vested in them by the constitution, to any stautory body.' We certainly intended no such suggestion.

"In keeping with the law after commutation is granted by the Governor upon the recommendation of the Board of Pardons, the prisoner becomes immediately eligible to apply for parole. The application of Wheatley was filed with us and the case properly processed by our Board.

"Under the law in cases of refusal, the Board of Parole 'shall within ten days after the date when the minimum term expires, transmit to the Board of Pardons a written statement of the reasons for refusal to parole the prisoner at the expiration of the minimum term fixed and appearing on the charter. Thereafter, the Board of Pardons may either accept the action of the Board of Parole or order the immediate release of the prisoner on parole, under the supervision of the Board of Parole.'

"The minimum sentence in this case fixed by the Board of Pardons expired February 19, 1955. The action of the Board of Parole to refuse with reasons therefor was transmitted by the letter to your Board on February 16, 1955, three days before the expiration of the minimum sentence appearing in the charter.

"We wish to assure you that it is the purpose of the Board of Parole to cooperate at all times with your Board within the framework of the law governing our respective Boards.

"Very truly yours,

FOR THE BOARD
J. M. DesRochers
Secretary"

Q What happened was that the Board of Pardons recommended, and the Governor refused, to release the prisoner; is that correct?

A That is correct.

Q Actually he wasn't released until November 22, 1955 or about ten and one-half months after the Governor signed the warrant commuting his sentence, is that correct?

A I have no knowledge of that.

MR. KOHN: Any questions?

BY SENATOR YOSKO:

Q Is there a letter in the file there from the Parole Board to the Pardons Board as to why they would not honor the recommendation of the Pardons Board and the Governor?

A Yes, there is a letter of February 16.

Q Will you read it?

A "As your record will show, the Governor upon the recommendation of the Board of Pardons on January 14, 1955, commuted the minimum sentence for Wheatley, thus making him eligible to immediately apply to this Board. Wheatley was interviewed by Representatives of the Board on Wednesday, February 9, 1955.

"The case was before the Board in executive session this morning. After giving careful and thoughtful consideration to the various factors involved, his parole was refused.

"In view of the nature of the case, the strong public sentiment expressed against releasing him, the vigorous objection of the Trial Judge and District Attorney, and the Board's considered judgment that to return Wheatley to society at this time would not be in the public interest, or in the best interest of the Commonwealth, the aforementioned action was taken.

"The Secretary in keeping with the law, was instructed by the Board to give you the above information."

Q What followed that?

A Letter from the Board of Pardons to Mr. DesRochers. These are not in chronological sequence because of the way in which I read them.

Q Do I understand that after the Parole Board refused to release Mr. Wheatley, the Pardons Board insisted that its recommendation be complied with?

A No, no, what happened was—

Q Was the argument between the Parole Board and the Pardons Board then?

A There wasn't any argument, Senator. We just wanted our position made clear. The new Board had just come in, the present Board of Pardons, and the case had been heard by the old Board of Pardons and they wanted to explain their position to the Board and that is all there was.

The Board then directed me to write a letter to the Board of Parole; a copy of my letter is in here.

BY REPRESENTATIVE BELL:

Q What is the date of that letter?

A February 28.

Q And what year?

A Nineteen fifty-five.

Q That was after—

A After the first session of the new Board.

Q Headed by Governor Furman?

A That is right, sir.

REPRESENTATIVE LOPRESTI: I think we ought to hear that letter. We heard the rest of them.

THE WITNESS: Letter to:

"Pennsylvania Board of Parole,
"In re: Thomas Wheatley

"Dear Mr. Des Rochers:

"The Board of Pardons considered your letter of February 16, 1955, regarding the above captioned inmate. The present Board of Pardons did not have the benefit of oral argument in the case, and they were, therefore, at a decided disadvantage to act upon your refusal to parole.

"Had the Board the opportunity of oral argument they would have been in a position to either concur with, or overrule the action of the Board of Parole, whichever they deemd to be the proper course of action. Since this was the first meeting of the Board of Pardons under the new administration they have nothing to do but reluctantly accept the recommendation of the Board of Parole. This, however, is not to be considered the course of action to be usually followed by the Board of Pardons. The Board of Parole must understand that the Board of Pardons feels free to act upon any case, according to its merits. They do not propose to surrender any of the prerogatives or authority vested in them, by the Constitution, to any statutory body.

"The Board, however, is of the opinion that in good conscience, these facts concerning the Board of Pardons and the Board of Parole's action should be fully disclosed to the applicant and his counsel.

"It should be further pointed out to the Board of Parole that since the Board of Parole's action did not come within the statutory requirement of ten days, the Board of Pardons is of the opinion that the Board of Parole has left itself open to litigation in the form of a writ of habeas corpus by this applicant.

"The Board of Pardons hereby reports its decision in the above matter to the Board of Parole.

"Very truly yours,"

Signed by myself.

BY MR. KOHN:

Q That followed the letter from Des Rochers which you have read into the record?

A Yes.

BY SENATOR YOSKO:

Q And how much time elapsed between the recommendation or the commutation by the Board and approval by the Governor and the release of the prisoner by the Parole Board?

A Well I don't know when the prisoner was released, Senator, because I was no longer on the Board.

MR. KOHN: Mr. Des Rochers is here at your request and he will be able to give it to you.

BY SENATOR YOSKO:

Q Who represented Mr. Wheatley at the trial?

A At the trial when he was convicted in Bucks County, it says J. Leslie Kilcoyne, Esquire and Syndey Krawitz, Esquire.

Q You mean the application?

A Yes.

Q Did either of them appear before the Pardons Board in connection with the application for the commutation?

A No sir, the record doesn't indicate it. I don't know whether they were there that day or not because we saw lots of—

Q Did you read the reasons the Pardons Board gave for commuting the sentence?

A You want me to read them?

Q Yes.

A "Our reasons for making this recommendation are as follows:

> "This applicant is fifty-two years of age. This is his first criminal conviction. This applicant committed an assault and battery with intent to kill on a police officer, seriously wounding the police officer and causing him to be hospitalized for several weeks.
>
> "At present time this applicant is in the State Penitentiary at Graterford and he has a good institutional record. This applicant settled a civil case for damages in the sum of twenty thousand dollars on the police officer that he assaulted.
>
> "Although the officials in Bucks County feel that it is premature, the Board is of the opinion that this applicant is not a criminal and that he bore a good reputation in the Community in which he lived. The Board is of the further opinion that having once entered prison he was as completely punished as any individual could porribly be and since he has now served over ten months of his minimum sentence, we feel that he has been sufficiently punished and we, therefore, recommend that his sentence be commuted."

Q Does the record show anywhere on the application or during the argument that Mr. Wheatley, after he committed the crime, absconded from the State and remained away from the State until he found that the policeman did not die and would recover?

A Well I wouldn't know without looking through this file, Senator, but—

MR. KOHN: I will agree.

THE WITNESS: He fled the State and went into New Jersey.

SENATOR YOSKO: New York or Maryland.

MR. KOHN: Maryland, I think the Parole report gives some of that, Joe.

THE WITNESS: The institution report.

BY SENATOR YOSKO:

Q Of course, this probably isn't fair to ask you, but the prisoner contended he was not guilty yet he absconded from the State after the crime was committed, is that correct?

A Well that is in the record.

Q Now in the notes of the Parole Board, I understand that there was a statement by Lieutenant-Governor Lloyd Wood and I quote it, and if I am wrong you tell me. He said:

"Of course, if he had shot someone else other than a policeman, I don't think there would be too much objec-

tion. The only thing that riles me a bit is that he shot a State Policeman."

Is that statement in the record somewhere as made by Mr. Wood?

A Well it is not in the Board of Parole record, as you first stated.

Q No, in Mr. McBride's transcript.

A Well that is it. You are quoting from the record, Senator.

Q But in spite of that statement, Mr. Wood voted to commute the sentence, is that correct?

A Well, I think perhaps the record so indicates that he voted in favor of it but Mr. Duffy's remarks in answer to the Lieutenant-Governor are enlightening on the fact.

"MR. DUFFY: He did that only because he saw the son, and there's no denying the fact the police officer hit the son with such force he broke the flashlight. My whole argument is the fact he did everything possible he could do after the situation was over towards making compensation."

Q But he did make the statement and voted to release him?

A Yes sir.

Q Was Mr. Duffy up to your office at any time that you can remember prior to the time this case was argued?

A The Wheatley case, not to my knowledge.

Q Did he talk about the case to you?

A No, Mr. Duffy never discussed any cases with me.

BY MR. KOHN:

Q Do you know if he discussed the case with any of the Members?

A No, not to my knowledge.

BY REPRESENTATIVE BELL:

Q Do you know of any political influence that was used in this case?

A None to my knowledge.

Q Was Mr. Duffy in this case as the attorney for the applicant for a commutation or a pardon?

A For a commutation.

Q For a commutation?

A Yes.

Q In other words, he was the attorney?

A Oh yes, he had cases before the Board frequently. Some were granted, some were not.

MR. KOHN: I would like to ask Mr. Nissley some questions but I would like to finish this case first.

CHAIRMAN TOMPKINS: There are a couple questions I would like to ask, too.

CROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q The minimum sentence was three and one-half years and after doing ten months, the recommendation was made that it be commuted, that is correct, isn't it?

A Yes, the recommendation was made that it be commuted to one year.

Q Now you said that you believed that Mr. Duffy was not Chairman of the Republican City Committee at the time. Do you know when he became chairman?

A No, I don't.

Q Do you know when he ceased to be chairman?

A No, I don't.

Q Wouldn't your best recollection be that as of November or December 1954 he was Chairman of the Republican City Committee?

A Well, General, I am not certain. I am not familiar with Philadelphia politics and I don't know whether he was Chairman of the Republican City Committee in 1954 or whether it was after the election in 1954.

MR. KOHN: He will take your word for it.

THE WITNESS: I am making no statement.

BY SENATOR YOSKO:

Q But you specifically stated he was not.

A No, I don't think I did because I don't know.

BY ATTORNEY GENERAL McBRIDE:

Q Do you know how long he was Chairman?

A No, I don't.

ATTORNEY GENERAL McBRIDE: In this connection, is Mr. Nissley going to testify further, because there were a couple—I don't want to go into other matters?

MR. KOHN: I thought we would finish this case first.

ATTORNEY GENERAL McBRIDE: But there were a couple of matters that I am sure Mr. Nissley would want to be heard on that have been in the record in this case. I don't say that he should answer them now, but there are a couple of questions that ought to be cleared up, not involving this case.

CHAIRMAN TOMPKINS: Not involving this case but other cases?

ATTORNEY GENERAL McBRIDE: Involving matters —there was a letter introduced and so forth—that I think Mr. Nissley would have the right to be heard.

MR. KOHN: Mr. McBride, may I suggest that, sir, we get those cases down and we can interrogate Mr. Nissley on other matters.

ATTORNEY GENERAL McBRIDE: Go ahead then.

REPRESENTATIVE LOPRESTI: Lets finish this one first.

ATTORNEY GENERAL McBRIDE: I was considering his time. That is all.

BY REPRESENTATIVE LOPRESTI:

Q Were you present when the argument was made on behalf of Mr. Wheatley?

A Yes sir.

Q And do you believe that this is all of the testimony, all of the argument that was made before the Board at that time?

A Oh yes, some of them were very short.

Q And that was the extent of the argument?

A Yes, because—

Q What reason was given by Mr. Duffy for the granting of the commutation in his argument?

A Well I wouldn't know unless I read it over here.

Q It is very short, isn't it?

A Well lots of the arguments are very short in front of the Board of Pardons.

Q I mean this particular one is very short and you can read it over very quickly.

A Well he first discussed the facts and then the Attorney General asked him if "there was a civil settlement

in this case of $20,000. The point in the judge's mind is whether the $20,000 has been paid," and Mr. Duffy said: "It has been paid"; that "The police officer has completely recovered. Although he hasn't served a lot of time he has been a decent, law-abiding citizen. I think he has tried to do the right thing. We have letters from people in the community . . .

"THE ATTORNEY GENERAL: You mean you have letters from people who want him out?

"MR. DUFFY: Yes. They say he is a fine type of citizen. In the letter from the preacher, he says he's a great family man," and then the Lieutenant-Governor's comments which are already in the record and then Mr. Duffy's comments.

Q Now the only other comment and it was very short, was it not, was that they had a petition from some people who would like to have him out?

A And that he was a good, law-abiding citizen before that and they had letters from the people in the community, which was a normal argument.

Q And that was the extent of the argument made by Mr. Duffy?

A Yes.

Q Now did you have anything in the records from the Parole investigation, which is conducted generally for the Pardons Board, let's say, and the prison authorities prior to the action on the application?

A Yes sir.

Q What did the parole investigating staff recommend?

A You mean in the institution?

Q They have a parole investigation, do they not?

A The institutional adjustment is rated very good. Now the Board of Parole investigation, which is made for the Board of Pardons, stated that:

"Reputation of Applicant. Good in community, prior to current offense.

"Parole Violation. None. Applicant has never been on parole.

"Comments of Judge and D. A. Judge Satterthwaite is opposed to commutation at this time.

"District Attorney Van Artsdalen expresses same views as those given by Judge Satterthwaite."

That is the content.

Q That isn't all of the comment, is it?

A Well I think there is some discrepancy that the point out.

Q Yes, they—

A In the applicant's story, that is all.

Q And what were those discrepancies?

A Well the applicant claimed that he was not visibly intoxicated and, according to Police Officer Metroka and William Lambert, "they did smell strong odor of alcohol." Now I don't consider that a serious discrepancy, because one place they said he was visibly intoxicated and a mere strong odor of alcohol doesnt make a man visibly intoxicated. "In addition, applicant's son pleaded guilty to the charge of Operating a Motor Vehicle While Under the Influence of Intoxicants." But that is the son; not the applicant. The "Applicant also claimed that his son was abused by Officer Caldarelli. The fact is that applicant's son grabbed Caldarelli by the collar of his shirt and applicant made an attempt to jump upon Caldarelli's back when Caldarelli was on top of applicant's son on the ground. However, this act was prevented by Officer Metroka. Applicant further claims that he had his gun in holster when Caldarelli made lunge for him. However, the fact is that applicant had the gun out of holster, pointed at Caldarelli, when Caldarelli made lunge for the gun, at which time applicant opened fire. Applicant also claimed that he did not shoot Caldarelli, nor did he intend to do so. The fact of the matter is that applicant left the scene of the accident in his truck and returned in an automobile, having on his person a pistol which he used without any provocation."

Q Now do you, likewise, think that none of these discrepancies are important?

A Well that is a matter of opinion.

Q Well you have expressed your opinion. So, since you involved it, what about the other discrepancy?

A I don't think I expressed my opinion. I don't think I offered any opinion.

Q Well I beg to differ.

A All right, you can differ.

Q When you first answered my question, you said that in your opinion the fact that they smelled a strong odor of alcohol, that wasn't a very serious discrepancy. I am now asking whether you consider the other things serious discrepancies or not? I did not ask for any opinions; you involved them.

A I only involved it as to the matter of visibly intoxicated.

Q It looked to me as though you were trying to justify the action of someone by your first observation. Now do you think the other discrepancies are serious or not?

SENATOR SCOTT: These are discrepancies in what, statements in the application and what the—

REPRESENTATIVE LOPRESTI: You see, Senator, at the time the Pardons Board was listening and deciding on this particular case, they had before them the confidential report of the Parole Board, which they should have and probably did take into consideration, and I just wanted to bring out that the Parole Board did not first object after it had been granted, but objected previously and pointed out certain discrepancies in the application.

THE WITNESS: Now may I point out, sir, that they never give a statement of opinion that they object. They only state the facts in this report to us. They don't make an opinion or they don't give an opinion.

MR. KOHN: Those facts relate to the facts appearing on the trial of the case.

BY REPRESENTATIVE LOPRESTI:

Q They made an investigation which, in effect, gives you what they have found out.

A That is right and then it is up to the Board to find out whether or not, in their opinion, these facts are material in relation to the case at hand. It is the Board's opinion.

BY ATTORNEY GENERAL McBRIDE:

Q In that connection, they do say "Applicant's version," don't they?

A That is right.

Q And then they have another section called "Official version"?

A That is right.

Q Either by consulting notes of testimony, where there are notes of testimony, they state the actual occurrences at the trial and a summary of the testimony?

A That is right.

Q And it is that that they said the discrepancy occurred in?

A That is right.

Q And the Board did consider it to be of significance that he had paid $20,000?

A Well I think so.

BY REPRESENTATIVE LOPRESTI:

Q You think so. So you would rather not give me an expression of opinion as to the importance of the discrepancy other than the one?

A I can't give it to you, sir, because it was the decision of the Pardons Board. I am only the Secretary.

Q My question is that you don't want to express an opinion other than on the first instance when you did?

A That is right.

BY SENATOR YOSKO:

Q And, Mr. Nissley, as I understand the facts, the defendant left the scene, went home and brought back with him this gun, is that correct?

A That is what the report shows.

Q Which is an indication that when he went home to get the gun, he brought it back to use it on the policeman and actually did use it, didn't he?

REPRESENTATIVE BELL: For which he got a jail sentence.

BY SENATOR YOSKO:

Q Which was commuted?

A Well the Board of Pardons, in the exercise of their judgment, thought that he should be commuted. I don't know any more than that.

Q And the Parole Board thought it was of such a serious nature that they ignored the recommendation of both the Pardons Board and the Governor, and retained the prisoner in jail?

REPRESENTATIVE BELL: And a different Pardons Board backed them up.

SENATOR YOSKO: I don't care about which Pardons Board or who backed up who.

MR. KOHN: I think all those facts are in the record.

BY SENATOR YOSKO:

Q We are not talking about Pardons Boards. We are talking about the action of a Pardons Board. If you want to go into Pardons Boards, the Pardons Board that made the original recommendation was the Pardons Board that is not serving at the present time. It was the previous Pardons Board.

A There was one Member on the Board, still one Member on the Board in February.

BY CHAIRMAN TOMPKINS:

Q There is an issue involved in there, however, that I would like to know whether or not in your experience as Secretary of the Board you ever had any others, and that is I gained the impression that the Parole Board took it upon themselves to ignore or override the actions of the Pardons Board by keeping this man in jail?

A That is correct.

Q Now in the course of your experience in ten years as Secretary of the Pardons Board, did you ever have any other cases where the Parole Board, as you can recall, took it upon themselves to override or ignore the recommendations of the Pardons Board?

A Mr. Tompkins, I just can't recall. There may have been one other. I am not certain, but I believe this was the only time. The law provides that if the Board of Pardons recommends commutation and it is approved by the Governor, the Board of Parole, if they do not agree with the action of the Board of Pardons in recommending commutation and release of the prisoner, the Board of Parole must so notify the Board of Pardons within ten days of their action and then it is up to the Board of Pardons to either concur in the action of the Board of Parole or overrule the Board of Parole by official action and immmediately discharge the prisoner.

Now in this case, between the action of the Board in December of 1954 and the action of the Board of Parole, a new Pardons Board, that is three new Members had come onto the Board of Pardons due to the change of Administration. Mr. Livengood was the only remaining Member on the Board, his term not expiring until May of 1955. So, he related to the present Board, with the exception of Miss Blatt, his feeling and understanding of the case and then since they had heard none of the argument on the case, they were at a loss to know what to do and they reluctantly stated that they would go along with the action of the Board of Parole.

BY ATTORNEY GENERAL McBRIDE:

Q When you say that the Parole Board overrode the Pardons Board, that isn't correct, is it? It acted entirely within its discretion, didn't it?

A Well, General, the action of the two bodies is separated.

Q Sure, the Parole Board had lawful authority to do what it did.

A That is right, if in their opinion they weren't entitled to release.

Q In every case, the commutation simply makes the man eligible for parole. It doesn't turn him out of jail?

A That is right.

Q And then the Board of Parole, in accordance with its lawful authority, decided not to parole him?

A That is right.

Q So that is not overriding, is it?

A The Board of Pardons has further authority then.

ATTORNEY GENERAL McBRIDE: If the Parole Board disapproves, they can direct his release.

CHAIRMAN TOMPKINS: I wanted to get that point clarified, General, for this reason. I want to know just exactly how strong is the power of the Pardons Board and how strong is the power of the Parole Board. If it is fixed by statute, then that is the answer. I was wondering how much conflict does exist, or in previous years, between the Parole Board and the Pardons Board on the actions of the Pardons Board.

ATTORNEY GENERAL McBRIDE. I think Mr. Nissley explained it very carefully.

THE WITNESS. I think there were only two cases in the ten or eleven years that I was there. This was one of them.

ATTORNEY GENERAL McBRIDE: Then you considered this as an extraordinary situation. I think Mr. Nissley adequately explained the law. If it isn't clear, I am sure he would go over it or I would.

CHAIRMAN TOMPKINS: I was trying to resolve the conflict between the power of these two Boards.

ATTORNEY GENERAL McBRIDE: There is no conflict. As he said, the Board of Pardons, under the case coming up from Delaware County, when there is a minimum and a maximum imposed, the Parole Board has no authority to act except after the expiration of the minimum. Now where the Board of Pardons acts and commutes that minimum, that makes the man eligible for parole and it becomes purely a question for the Parole Board to investigate his parole plan and so forth and so on, and decide whether he should be released and if they decide that he should not be released, under the law as Mr. Nissley said they have to report that to the Board of Pardons which then has the right, by statute, to overrule the Parole Board and direct his immediate release and in this case, the Board of Pardons chose not to direct his immediate release. They, in effect, accepted the action of the Parole Board.

CHAIRMAN TOMPKINS: I was merely trying to clarify the power of the two Boards. I am satisfied.

REDIRECT EXAMINATION

BY MR. KOHN:

Q Now, Mr. Nissley, during the time you were on the Board, can you tell us approximately how many special listings that were made by your Board of cases?

A What do you mean by "special listings"?

Q I mean somebody would write in and say they were filing an application and you would have it specially listed, and then it would get on the printed list.

A I don't know of any case where that ever occurred.

Q And where did you keep the advertising of the cases, proofs of publication?

A Well they were kept in the fifth floor, in the files of the Board of Pardons.

Q Did you keep them?

A Yes, we had copies of the advertising that was sent to the newspapers and the Legal Journal in the county, if there was one, and a copy was kept of the advertisement and a copy was kept of the proof of publication.

Q Were there any cases specially listed by request of counsel or outsiders in the case where you did not advertise and still listed the case extra on the printed list?

A No.

Q And at that time, I think the rule of the Board was that you had a file and it would be heard at the next month of the Regular Session?

A You filed on the tenth day of the month preceding the month in which it was to be heard unless that month happened to fall on Saturday or Sunday and in that event, we held the list open until the following Monday because we get a lot of things—

Q Did you list any cases that came in that were not advertised?

A No, because the Constitution requires that you give due public notice and while I was Secretary of the Board, we felt that due public notice meant giving it by advertising in the newspaper and then sending out, of course, the calendar of the Board to those persons.

Q There were no cases added to the calendar after you sent it out, no cases heard after the calendar was made up?

A No, Mr. Kohn, I would say that there were cases added but if they were added after the calendar had gone to the printer, we inserted and sent to the institutions an extra sheet and we sent a letter to the newspapers requesting them to add the names of the persons who were added to the calendar.

Q You would then insert an extra sheet into the calendar and, thereby, all cases were listed when they came up for hearing?

A You mean listed in the calendar? Not if they were a capital case.

Q I am talking about other than capital cases now. I mean, what I am trying to say,—maybe I am not saying it plainly—would you hear any cases that were not listed on the calendar outside of capital cases?

A You mean listed in the printed calendar?

Q Yes.

A Well going back over eleven or twelve years is pretty difficult to state. I don't recall of any.

Q That was not the practice?

A No, it definitely wasn't the practice.

Q In other words, you would not get a request for a special listing or a listing and then just put it on your calendar sheet that you distributed to the Members of the Board, and not have it listed on the regular calendar in some form or another for hearing?

A I don't recall of any case like that.

Q Now what was the practice of the Board in regard to rehearings that were granted?

A Well, of course, when they got the sad news that they were not going to have their sentence commuted, why, the attorney or the applicant's representative would usually write in and in most instances they would write in and request a reargument of the case.

Q In regard to those rearguments and rehearings, what were the requirements of the Board before they would grant such reargruments or rehearings?

A Well what would happen is that I would send a round robin around, with the representative's letter, to the Members of the Board so that they could review the situation, together with the file. The file went along, too, and under the rules of the Board at that time, if two Members were in favor of a reargument, a reargument was granted at the next Session of the Board, at which it could be properly placed on the calendar.

Q What I mean is, what requirements did the Board have before they would even send out a round robin, no special requirements?

A No.

Q Did they have to file new reasons or anything of that kind?

A Yes.

Q Just a request for reargument or rehearing?

A Yes.

Q You are familiar with the new rule passed by this Board?

A No. I am not; no, I am not.

Q What recommendations could you give this committee in particular in regard to the files before the Pardons Board? I mean there is no chronological listing of letters received or petitions received or anything of that kind. They just are put into the file, are they not?

A Yes.

Q Some files contained as high as three or four applications.

A That is right, when the application first comes in, it is assigned a number. When we got up to 10,000, then it got to be too many numbers and we decided to put an A, and I think they are up now pretty close to A-9.

Q Do you have any recommendations you would like to give this committee for, or suggestions in connection with, the procedural rules of the Board of Pardons from your experience?

ATTORNEY GENERAL McBRIDE: Isn't this the kind of thing we were going to go into after you finished the Wheatley case? I think it is very interesting and I would like very much to hear Mr. Nissley. I thought we were all reserving our questions generally until after the Wheatley case.

MR. KOHN: We finished the Wheatley case.

ATTORNEY GENERAL McBRIDE: If we have finished the Wheatley case, there are some questions I would like to ask Mr. Nissley.

SENATOR YOSKO: There is just one more question I would like to ask Mr. Nissley.

BY SENATOR YOSKO:

Q I think you said that Mr. Duffy, while arguing the case, said there were letters in the file from people from Bucks County. How many letters are there favoring?

A There are three here. I just see three here.

Q Is one of those from the sponsor?

A No.

Q Are the letters substantially the same?

A Well I haven't looked at them for several years; I wouldn't know. Well the usual type of letter we received in those cases or in any case.

Q In substance, they say what?

A They say that he had a good previous reputation, that he had been in no difficulty before, that he was a religious man and that they recommend that commutation be granted.

CHAIRMAN TOMPKINS: Is one of them from the minister?

REPRESENTATIVE LOPRESTI: I would like to look at them to see what they are.

The WITNESS: No, he is Secretary of the Trustees of the Oxford Valley Chapel, this one man, Mr. Erwin.

RECROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Nissley, on the question of advertising, you would advertise every case before the first hearing but you did use the—

CHAIRMAN TOMPKINS; Just a minute, General. I think we wanted to finish this question and then I want to take about a fifteen minute recess.

ATTORNEY GENERAL McBRIDE: I just wanted to ask one question while it is fresh in our minds.

BY ATTORNEY GENERAL McBRIDE:

Q On the question of advertising, you advertised the first hearing and then if there was a request for reargument, you used the round robin method, didn't you?

A Yes, but, General, we also advertised it in the newspapers.

Q. You mean before the first hearing?

A That is—

Q What if a rehearing was granted for the following month, did you cause a new advertisement to be issued to the newspapers?

A Yes, I think we did.

Q Are you sure?

A There may have been instances where it wasn't done but we tried to get every case in because we felt that the due public notice—

Q Even on the rehearings?

A Oh yes sir.

BY CHAIRMAN TOMPKINS

Q How about special listings?

A In murder cases, the applicant's attorney must do the advertising and include that in the application when it comes before the Board, in a death case where a man is under sentence.

FURTHER REDIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Nissley, just one other question occurred to me. Do you recall, during the time that you were on the Board, of any rehearings or reaguments requested by Congressmen or others who were not counsel of record on the case that were granted to anybody?

A Oh I wouldn't know. We heard thousands of cases and I couldn't possibly—

ATTORNEY GENERAL McBRIDE: To be fair to Mr. Nissley, Mr. Wright read some letters into the record.

BY MR. KOHN:

Q Were any rehearings granted on the application of some Congressmen?

A I really couldn't remember. In that period of time, eleven years, I think we probably—I processed maybe 12,000 cases and I wouldn't know. One session I know, in the June 1945 Session of the Board of Pardons, we heard nearly 400 cases in five days. We had sessions Monday through Thursday.

ATTORNEY GENERAL McBRIDE: God Almighty.

CHAIRMAN TOMPKINS: Let us take a recess for fifteen minutes.

(After recess.)

CHAIRMAN TOMPKINS: Out of deference to the gentlemen who traveled some distance to get here today, we will take them next and then finish up with Mr. Nissley.

EDWARD M. SATTERTHWAITE, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q Will you please give us your full name?

A Edward M. Satterthwaite.

Q What position do you hold in Bucks County?

A Judge of the Court of Common Pleas.

Q How long have you been a Judge of the Court of Common Pleas?

A A little over five years.

Q You may state whether or not you tried the Wheatley case.

A I did.

Q And you heard the testimony in regard to the facts here on both sides, and is that an approximately correct statement, Judge Satterthwaite?

A I am, Mr. Kohn, I am not in a position at this time to review the facts in the case. It was a very lengthy record and I cannot state whether one or another version of the facts is correct.

Q Did you oppose the commutation by the Board of Pardons of Wheatley's sentence?

A I did.

Q And your letter was read into the record, was it not?

A That is right.

Q And do you feel that the Board of Pardons was mistaken in their judgment in allowing the commutation?

A You use the words "mistaken in judgment." I am not quite sure it is within my province to say whether or not they made a mistake. If I were in their position, I would not have done it, put it that way.

Q But you did definitely oppose it?

A I did.

BY SENATOR YOSKO:

Q Judge Satterthwaite, on some previous cases judges were called in to express opinions and that is one of the reasons why we asked you to come up here today, and I trust we didn't inconvenience you too much.

A It happened, sir—off the record—that today was a better day than any other day you could have picked.

Q That is fine. What was the reaction of officials, people generally, relative to the commutation of the sentence of Mr. Wheatley?

A I am not sure that I understand what you mean by "reaction." The public press raised a considerable fuss about it. I can't say that I can advise you in any other connection.

Q Was there public resentment to it?

A In my opinion there was.

Q And when you wrote the letter objecting to the commutation, your reasoning behind it was based on the facts as they were presented to you at the trial?

A Yes, as sentencing judge I had imposed a sentence which I, in my best judgment, thought should be carried out.

Q Could you have imposed a heavier sentence than you did?

A You mean legally?

Q Yes.

A I believe so; I don't recall offhand what the maximum sentence is.

Q It was one to three years.

A No, the sentence itself was three and one-half to seven but what the sentence could have been under the Penal Code, I just don't know offhand.

Q But you gave the maximum sentence?

A I don't recall whether I did nor not. My recollection is—and I don't want to be held to this—that I did not impose the maximum sentence.

Q The sentence that you did impose, you thought fitted the degree and the seriousness of the crime?

A That is right.

BY REPRESENTATIVE LOPRESTI:

Q Did any of the law enforcement officials of the community make any comment on the action of the Board to you at the time?

A Not to me, no. They were quoted as opposing it in the public press. That is all I know about it.

BY MR. KOHN:

Q Was that at the time the commutation was made and not at the time of the parole?

A Mr. Kohn, I don't have any distinct recollection at all about the time the parole was actually granted, any public opinion or anything else at that time.

Q Well the commutation was granted I think—

A The commutation, let's not misunderstand each other. Are you talking about the commutation or the parole?

Q I am talking about public sentiment. You are talking about whether or not that was at the time the commutation was granted.

A That is the time I was directing my remarks to Senator Yosko about.

Q Of course, the Parole Board kept him there until November 22, 1955. At that time was there any public sentiment?

A That is what I meant when I said my last remarks; that I don't distinctly remember whether there was any sentiment or additional public sentiment at that time or not.

BY SENATOR YOSKO:

Q Just one more question. I don't want to inject politics into it except to ask you one question.

Are you a member of the Republican Party?

A I don't think that is any of the committee's business. I can say this. I was appointed by Governor Fine, I was elected in 1953 without opposition by both parties.

Q Do you know whether or not Mr. Duffy was Republican City Chairman of Philadelphia at the time?

A I dont' know anything about Philadelphia. I don't know anything about Mr. Duffy.

Q Did Mr. Duffy participate in the trial of the case?

A No sir.

Q Does Mr. Duffy practice very much before the courts?

A He is not a member of our Bar. At least in my time on the bench, he never has practiced in Bucks County.

BY REPRESENTATIVE LOPRESTI:

Q A motion for a new trial was made and disposed of and there was no appeal taken.

A I am not sure, sir, whether an appeal was taken. I have no opinion as to whether an appeal was formally decided by the appellate court.

SENATOR YOSKO: Will you let me see those three letters please?

(Mr. Kohn handed letters to Senator Yosko.)

BY SENATOR YOSKO:

Q Judge, do you know Joseph A. Keating?

A Yes.

Q How far does he live, if you know, if you know from Mr. Wheatley?

A Roughly five miles I would say. It may be four miles; it might be six. It is in that neighborhood.

Q Do you know whether or not they ever had any business relationships?

A That I don't know.

Q Do you know Donald H. Outcalt—O-u-t-c-a-l-t?

A That name is not known to me.

Q How far is Yardley from the place that Mr. Wheatley lives?

A Again, Mr. Yosko, it would be an estimate; between five and ten miles. I just don't know exactly. They both are in lower Bucks County.

Q Do you know Robert Erwin of Bucks County, R. D. 2, Langhorne?

A I am not sure who you are referring to. I do know a man by that name in Langhorne.

Q It is one of the persons that wrote a letter to the Pardons Board. How far is Langhorne from the place where Mr. Wheatley lives?

A Again, I would have to give you an estimate of between 5 and 10 miles.

Q What is the occupation of Mr. Wheatley, if you know?

A At the time of trial he was employed as—self employed as a proprietor of a garage, service station, towing business.

BY CHAIRMAN TOMPKINS:

Q Do you know anything about him now?

A I have heard nothing about him since.

BY REPRESENTATIVE BELL:

Q Judge, were you Judge of the Common Pleas Court of Bucks County at the time of the commutation of the Darcy case?

A I was.

Q What was the reaction of the public officials, the public officials, the police, and the people generally to the commutation of the Darcy death sentence?

A I don't know that I can add anything to what has already been said in that connection, sir. I presume it has already been testified at hearings before this Committee as to the general situation, that there was public resentment.

Q We would like to know because of the fact that there have been statements made that public resentment was due to newspapers. We would like to know what was the actual public resentment in the county or portion of the county through the commutation of the death sentence.

A It is a thing that is hard to put into words. I think I am speaking purely for myself in this. I think we had the same resentment as you would have in any case where you felt there had been an injustice done. People felt strongly about it, there is no question about it.

Q You said "injustice done." Will you enlarge on that, sir? In other words, why do you feel it is an injustice?

A That the dignity of legal process had been maligned and abused. As I said, it is hard to put into words.

Q Do you have any knowledge of any adverse effect upon the administration of criminal justice as the result of those cases?

A Which cases are you referring to?

Q The Darcy case. We class the Zeitz, Foster and Darcy cases informally as Darcy. I am thinking now of perhaps police officials.

A I am not in a position to speak for any police association. As a matter of fact, you have a representative here of the Bucks County Police Association.

Q The administration of criminal justice in general, then.

A Again, I don't think I can put anything into concrete words on the subject. I think, by and large, the reaction of the general public of Bucks County and people throughout the State is that the Darcy case is a mockery to the criminal laws of the State.

Q Was there actually bitter resentment in the County to the commutation of Darcy and his two accomplices as the result of the commutation from a death sentence to life sentence?

A No question about it.

Q On another subject, Judge, do you have any suggestions to give us on the matter of remedial legislation as to, perhaps, a change in the composition of the Pardons Board?

A No, sir, I have not. I have not made any study on it. I don't know enough about it to be able to discuss it. I was just asked yesterday to come here, and I certainly have not had time to make any investigation on the subject; and previously, I had had no occasion to.

REPRESENTATIVE BELL: I see. Thank you very much.

BY SENATOR YOSKO:

Q Judge, is your opinion the same relative to the administration of justice on the release of Mr. Wheatley?

A Yes; certainly.

Q Except for the degree of the crime, the reaction was the same; do I understand you to say that?

A Well, it is probably a different degree in that the Darcy case received much more widespread public opinion than the Wheatley case; but the reaction was of the same type.

Q It was just by the grace of God, though, that the police officer that was shot didn't die. I mean they were both shooting. The one case, as I see, the one was deliberate, and the other, as I gathered here from the testimony, it has never been established, but a bullet from the gun fired by Wheatley could have killed the victim.

A You have me at a disadvantage, Mr. Yosko. I don't know enough about the facts of the Darcy case in order to discuss it.

Q That was testified by the District Attorney of Bucks County.

CHAIRMAN TOMPKINS: I think the one case, the

Wheatley case, was more or less provoked; and the other one had no provocation at all.

ATTORNEY GENERAL McBRIDE: The Commonwealth's testimony did show it was provoked.

BY REPRESENTATIVE LOPRESTI:

Q Judge, in your opinion, had the officer died, the officer who was shot by Mr. Whaetley, it would have constituted murder in the first degree, would it not?

A I have already said, and I say it again; it would have.

Q And the death penalty would have been warranted had the police officer died?

A Yes.

BY ATTORNEY GENERAL McBRIDE:

Q By saying that the public reaction in the Darcy, Foster, Zeitz, or Wheatley case, it is very difficult to separate what is caused by publicity and what is not caused by publicity, is it not, Judge?

A You are covering a lot of territory, Mr. McBride. I don't know how to answer that, except to agree with you in general; certainly.

Q As to the mockery of justice, you don't mean to intimate that the Board of Pardons acted beyond its jurisdiction, do you?

A No. I don't question the jurisdiction of the Board of Pardons in either case.

Q Now, as to Foster and Zeitz, all legal proceedings having ended possibly 5 years before the commutation and they having been kept in separate and solitary confinement, without exercise, for about two of those years in any event, and then ultimately commuted, would you think that, as to those two, who had not caused any delay at all, and as to whom there were pending no legal proceedings, it would have been proper, after the passage of all those years, and then having endured that kind of punishment, to then put them to death?

A Mr. McBride, you have me at a disadvantage in that I have already said I have no official knowledge or connection in any way with the Darcy, Zeitz, Foster cases.

As an abstract proposition, I still think that the sentences imposed by the Court and duly affirmed by all the various courts they were taken to should have been carried out.

Your point is that Mr. Foster and Mr. Zeitz did not participate in those appeals.

Q Yes; and they were kept alive for 5 years, with no proceedings pending, and kept under these conditions. Wouldn't that, in your mind, create some reason for commuting the sentence after that kind of punishment had been imposed, in view of the fact that the Statute prescribes either death or life imprisonment, but not in addition that they be kept alive under such conditions for 5 years or more.

A Well, it would certainly, as you say, provide some reason. Whether that reason is one with which you or I would agree is a matter of opinion. I don't have any definite opinion on it, no. It is not my province to say so.

Q Thank you, Judge. Do you know of anything corrupt or improper in connection with the commutation of David Darcy?

A No.

BY MR. KOHN:

Q Do you know anything improper in connection with the other ones?

A No. I have no knowledge at all of anything in connection with the Darcy, Foster, Zeitz case, and, therefore, have no knowledge of any improper influence or corruption or anything of that sort. In answer to your question, Mr. Kohn, even though I was officially connected with it, I have no konwledge of anything improper or corrupt connected with the Wheatley case.

CHAIRMAN TOMPKINS: All right. Thank you very much, Judge.

(witness excused)

. . . DONALD W. VanARTSDALEN, District Attorney, Bucks County, sworn:

BY MR. KOHN:

Q You are the District Attorney of Bucks County?

A Yes, sir.

Q You did not try the Wheatley case?

A No, I didn't.

Q You were elected after the Wheatley case had been sentenced?

A I took office at least afterwards, yes.

Q And you opposed this commutation on the basis of information you received from your predecessor?

A Yes; and, of course, I did have some personal knowledge of the case, having been an assistant at the time.

BY SENATOR YOSKO:

Q Did you appear before the Pardons Board to present your objection?

A No, I did not. We have a comparatively small staff, and it has always been our policy not to appear except in a capital case. I think they are the only cases we have ever appeared at personally.

Q When you were up here before, I think you were asked questions about the reaction of the public and police officials and that sort of thing with regard to the Darcy case.

Would you care to express an opinion on the same reaction in the Wheatley case?

A Well, I don't know whether you could say it was the same reaction. Certainly, amongst the people who are familiar with the Wheatley case, I think they felt a strong resentment to the action that was taken. When you say the same reaction, I wouldn't say the same—

Q Well, a similar reaction.

A Neither in intensity nor necessarily in actual feeling; and I think that is for this reason: of course, in the Darcy case you had a capital punishment that was initiated by a jury. In the Wheatley case, it was merely a matter of cutting down a sentence that had been imposed by a judge.

It seems to me that because of those different factual situations, the type of reaction that was generated by the positions of the Board of Pardons was somewhat of a different nature.

Q Did you participate in the trial of Wheatley?

A Not in the trial itself, no, sir.

Q Your name appears somewhere in the file, and that is one of the reasons you have been called here.

A Well, I wrote a letter to the Pardons Board, opposing

the commutation. I know that Mr. Curtin tried the case, sir. It is possible that I appeared on one of the statements or something of that sort. I know that Mr. Curtin tried the case.

Q And your objection to the commutation was based on the facts as you know them, so far as the commission of the crime was concerned?

A Yes, plus one other factor, my complete confidence in our courts and in the fairness of the sentences that are imposed by our judges.

CHAIRMAN TOMPKINS: Thank you very much.

(witness excused)

. . . PAUL J. BRENAN, sworn:

By MR. KOHN:

Q What is your full name?

A Paul J. Brenan.

Q Were you on, January 24, 1955, the president of the Bucks County Chiefs of Police Association?

A I was.

Q And did you send a telegram that has been read into the record to the Board of Pardons, opposing the Wheatley commutation?

A I did.

Q And did you feel that it should not be commuted?

A Personally, I felt as though it shouldn't be commuted, and I was acting on the requests of various other police chiefs, who were members of our Association and contacted me by telephone, requesting that such a telegram be sent.

Q And you were asked to come up here by me, at the request of Senator Yosko; is that correct?

A Yes.

Q I sent you a telegram requesting that you come up here; is that right?

A That's right.

BY SENATOR YOSKO:

Q You said that you sent that telegram at the request of numerous police officers and police chiefs that contacted you?

A That is correct.

Q Did you feel the same way about the situation?

A I did.

Q So that whatever sentiments are expressed in that telegram are yours plus others that contacted you?

A Substantially, yes.

Q What was the general reaction of the people and police officers and public officials in Bucks County resulting from the action of the Pardons Board?

A Well, I think I can speak for the police officers, not the public in general. They were pretty incensed over it. They felt that if that was allowed to continue or go through, that—and I think the telegram brings it out—in effect, that the police officer, his life wasn't worth too much down around Bucks County.

Q Did you hear the names of the people that I mentioned that sent in the letters, who did not object to the commutation?

A No, I did not. I couldn't hear very well back there.

SENATOR YOSKO: Will you read those names to him?

MR. KOHN: Do you want the letters, Senator Yosko?

SENATOR YOSKO: Yes.

MR. KOHN: Sylvester E. Keeting, Pendel, Bucks County.

BY SENATOR YOSKO:

Q Do you know Mr. Keeting?

A I know a Mr. Keeting.

Q He is the insurance man?

A I know a Mr. Keeting who was at one time a justice of the peace. Whether this is the same man—I know of a Joseph Keeting, but a Sylvester—oh, it is Sylvester and Keeting, excuse me. I know a Joseph Keeting, yes. I see his name here.

BY MR. KOHN:

Q Do you know a Joseph Keeting?

A Yes.

Q Take a look at those letters. Would you say those letters are of a voluntary nature or do you think they were solicited?

MR. KOHN: How could you tell that?

SENATOR YOSKO: Because it is addressed, "To Whom it May Concern," and if I were to write a letter to a Pardons Board, I would address it to the Pardons Board.

A Yes, sir. What is the question relative to these letters?

Q Whether they appear to be voluntary or of the type that would be solicited.

A I can't answer that just from sitting here, reading a letter.

Q I beg your pardon?

A I say, I can't answer that just from reading a letter.

SENATOR YOSKO: All right.

(witness excused)

. . . JOHN M. DesROCHERS, Secretary, Board of Parole, sworn:

BY MR. KOHN:

Q What is your full name, please?

A John M. DesRochers.

Q What position do you hold with the Board of Parole?

A. Secretary.

Q I asked you to bring with you the files of the Wheatley case. Do you have them with you?

A Yes.

Will you tell us when Mr. Wheatley was paroled?

A He was actually released on parole November 22, 1955.

Q When was the commutation granted?

A The commutation was granted—

Q January 14, 1955?

A Signed.

Q Yes. And he was kept in by the Board of Parole because they did not feel that he was ready to be released to society, Mr. DesRochers?

A That is true.

MR. KOHN: I don't know what else you would like to have, Senator Yosko. We have gone over the letters between the Board of Parole and the Pardons Board. I don't know what else you want to bring out.

BY SENATOR YOSKO:

Q What inspired the Parole Board to take the actions that it took in refusing to go along with the recommendations for commutation by the Pardons Board?

A What expired?

Q What inspired? What were the reasons?

A Well, Senator, first, to tell you the reason that the Parole Board had, in addition to that, the Board had the advantage of interviewing the man at the prison. Of course, they did not appear in person before the Board of Pardons.

Now, with that interview and with the investigative material the Board had, and along with plenty of letters as the Pardon Board received, we likewise received in opposition to that, the Board felt that, in view of the sentiment expressed, that to release this man at the time would not be in the public interest. Therefore, they took action to refuse.

Q What was Mr. Wheatley's attitude while he was in prison?

A Well, at the time they interviewed him first, he didn't consider himself guilty of any crime. He says the officer had beaten up his son and in a struggle with a police officer, his gun was discharged. He knew nothing about the bystander who was shot. He fled from the scene; surrendered to the officer at Doylestown. He admits having 4 or 5 beers on the evening when the occurrence took place. He said he intended to return to his wife and business. He denied any previous controversies with any state police. He maintains that he had many good friends on the police force.

Institutional adjustment was all right.

BY CHAIRMAN TOMPKINS:

Q What was that last statement?

A His institution adjustment was satisfactory.

BY MR. KOHN:

Q What about his reputation so far as your records show, his reputation in the community in which he lived?

A Well, you read the Pardons Board—

Q Well, I was just wondering whether there was a subsequent investigation.

A No, I do not believe so.

Q You agree with the Board of Parole report dated December 2, 1954, in which it is stated that from investigation, it discloses that the applicant did bear good reputation in the community?

A Yes, I would have to.

Q You didn't have any subsequent information?

A No.

BY SENATOR YOSKO:

Q You said in your original statement that due to investigations that you made and from public sentiment and from letters that you received—

A That's right.

Q (continued)—the Parole Board decided to disagree with the recommendation of the Pardons Board and to retain Mr. Wheatley in prison?

A Yes.

Q Now, from what you have read, you didn't substantiate those reasons. Will you please elaborate on them?

A The investigation end of it?

Q Yes.

A Well, understand, Senator, we made the investigation for the Pardons Board and, of course, the Board had access to that. That was the investigation into the effect of crime as well as the community sentiment, which was read this morning.

Q Did you have any other letters other than the letters we have?

A We have plenty of letters. The Chief of Police letter, just like Mr. Nissley got from the Pardon Board; the Head of the American Legion, and various other citizens of the county, opposing the action.

Q Do you have that file with you?

A Yes.

Q Give us the letters and from whom they were received. There is no letter in the Pardon Board file from the American Legion, not that I had a chance to see, anyway.

A Do you want me to read this letter?

Q Yes.

A It is on American Legion stationery, signed by Harry A. Hall.

"January 28, 1955

"Dear Major Hill:

"It just so happens that I am Vice-Chairman of the Americanism Committee of the Pennsylvania Department of the Legion for the past 5 years.

"In the first place, I want to go on record with you that this communication is not an official Legion letter, because the subject was not discussed by our body or by any post of the Legion, to my knowledge, but I do personally want to go on record as a tax-paying, honorable citizen of this Commonwealth, who helps to pay the freight by taxes to maintain one of the best police departments in the United States. My idea of a hundred percent miscarriage of justice was exemplified just a few weeks ago when the then Governor Fine granted Thomas Wheatley a commutation to three and a half years from the seven-year sentence in the State Penitentiary.

"State Trooper Caldarelli was shot down while in the performance of his duty for this State by Wheatley, who even took time out to go to his home to get the gun to shoot down an officer of the law. I am clipping out newspaper articles of the statements that Trooper Caldarelli had been given a cash settlement of his injuries for $20,000; but he did not say that this was due process of law by judge and jury.

"This is absolutely nothing to do with the offense against the State of Pennsylvania. My question is: what are we coming to by condoning such a miscarriage of justice? Ex-Governor Fine is wrong by every measurement of sound judgment. This is not good Americanism. It is my sincere hope that the State Parole Board will be able to keep this man, Wheatley, in jail, to serve at least his minimum sentence."

It is signed by Harry A. Hall.

BY MR. KOHN:

Q What Legion post was that?

A You see, he was Vice-Chairman of the Americanism Committee of the Pennsylvania Department of the Legion, a State Officer.

Q State Officer?

A Yes, and he indicated it wasn't coming from any particular post.

Q To whom was it addressed?

A Major Hill.

BY SENATOR YOSKO:

Q Who is the next one from?

A Well, this one was written— this was written to Governor Leader by Howard Lister, Philadelphia. Do you want me to read the letter that he wrote to the Governor?

Q Is it favorable or unfavorable?

A It was unfavorable. During the period of 1930 he was a member of the Pennsylvania State Police; so it was unfavorable.

Q What was the next one?

A Well, this is from a Mr. Raymond Gibson, in Philadelphia. It is rather brief: "I wish to voice my objection to the proposed parole of Thomas Wheatley, convicted of shooting a state trooper. How can you keep the cops' morale up in freeing this attempted killer?"

And there is probably the same thing, Fraternal Order of Police—

BY REPRESENTATIVE BELL:

Q Who signed that letter, sir?

A That was signed by—I am very sorry—Ladies' Auxiliary of the Fraternal Order of Police; Mr. Warlick President, and Mrs. McNeil, Secretary.

Q This is, very frankly, against the parole?

A That's right. She says, in effect, that the Women's Auxiliary of the Fraternal Order of Police believe Wheatley should be compelled to serve his maximum sentence.

"As wives, mothers and sisters of policemen in the vicinity in which this near-fatal tragedy occurred, we feel that paroling Wheatley would leave an open door for similar occurrences. We pray that you consider the ruined physical condition of Trooper Caldarelli, struck down while working as a servant of the people of the Commonwealth."

The next one was to Governor Leader, also from a Mrs. Naomi Gohring, of Cooperstown—I guess that is Bucks County—likewise opposed.

Samuel Gorson, Esquire, an attorney in Philadelphia.

BY MR. KOHN:

Q Gorson, isn't he the counsel for the Chiefs of Police Association?

A That is right. "The Pennsylvania State Lodge of Fraternal Order of Police, at a meeting assembled at Pottsville, Pennsylvania, on Thursday, January 27, passed a resolution condemning the proposed parole of Thomas Wheately, who shot a state policeman on May of '53. The details of it are set forth in a copy of my letter to Major Hill, enclosed."

This is a letter from the President of the Bucks County Police Association.

BY REPRESENTATIVE BELL:

Q What is the next one?

A Judge Satterthwaite.

Q That is opposed.

A Clarence—

BY REPRESENTATIVE LOPRESTI:

Q Pardon me just a moment. Let us return to Judge Satterthwaite's letter. Was that after the Parole Board had—I mean the Pardon Board—had acted on the parole, or was that before?

A No. This was to us in the contemplated hearing for parole, dated January 21, 1955.

BY SENATOR YOSKO:

Q Read it.

A (reading)

"Dear Sir:

"I have your notice advising that a hearing will be held on February 2 or thereabouts on the application of the above-named, for parole. I understand the Board of Pardons has recommended and Governor Fine has approved the application to commute the sentences from three and a half to one year.

"I have little more to add than what already appears in the record of that case except to say that I am unalterably opposed to releasing this man at the present time. As far as I am concerned, except for the skill of medical science, he would have been probably convicted of first-degree murder, with the death penalty; but for the fortunate circumstances in that the victim of his unjust and unprovoked and unjustified attack happened to live—if there ever was a case of wilful, malicious attack with deadly weapon, this certainly is it.

"I certainly believe it would be a miscarriage of justice to permit him to be released after serving one year of his sentence. I am fully familiar with the circumstances. At the expiration of a minimum as reduced by the Pardons Board, such Parole Board must transmit its reasons therefor, and if it then becomes the duty of a Pardons Board to either abide by such refusal or its order to release.

"I strongly urge that in this case the Board of Parole take advantage of this provision and place the responsibility of the man's release upon the Pardons Board if he is to be released and which I hope will not happen at this time. While it has no legal bearing, the announcement of the fact that the Governor had commuted Wheatley's minimum sentence has aroused a storm of protest in Bucks County. The situation is especially aggravated since his victim was a Pennsylvania State Police Officer, acting in the performance of his duties and while in uniform. The confidence of the public in the administration of justice would be severely undermined if he is released at this time.

"Very truly yours—"

Q What else do you have?

A Bucks County Police Association, signed by Wenhoe. "We, the Bucks County Police Association—"

BY CHAIRMAN TOMPKINS:

Q Are they opposed?
A That is right.
Q. All right.
A Gorson and Cohen, Philadelphia attorneys for him, opposed.

BY REPRESENTATIVE BELL:

Q Who signed that letter?
A Gorson.
Q That is the second one?
A That's right. I believe that—Mr. Herman Esterline, Fraternal Order of Police. Well, that is a telegram—

BY SENATOR YOSKO:

Q Do you have any letters in there recommending—
A No, there are not.
Q You are familiar with the subject matter of each of those letters, are you not?
A Yes.
Q I am going to read a statement to you that was made by Mr. Wood, who was a member of the Parole Board at the time. This is what he said, and I quote: "Of course, if he had shot someone else other than a policeman, I don't think there would have been too much objection. The only thing that riles me a bit is that he shot a State Policeman."

That sentiment is equivalent to the sentiment expressed in those letters?
A It appears to be.
Q And I think the record shows that, in spite of that, Mr. Wood, plus the other members of the Pardons Board, voted for a commutation?
A Apparently.

Q Do you know whether Mr. Duffy, at the time he appeared before the Parole Board, was a member of a political party or a chairman of a political party, at the time?
A As far as I know, Senator, Mr. Duffy did not appear before the Parole—Pardon Board, you mean?
Q Yes.
A I do not know. I only know the gentleman by correspondence. He wrote to us later.
SENATOR YOSKO: Any other questions?

BY ATTORNEY GENERAL McBRIDE:

Q How many cases did the Board of Parole refuse to parole after commutation by the Board of Pardons?

A Well, now, General, Mr. Nissley answered that; but I believe that Joe's memory slipped a little bit. I have been secretary 12 years—I can't give you a definite answer but I believe there were 5 or 6 cases. Now, among those 6. there were 2 or 3 that, between the time the Governor commuted and the time, which may be 2 weeks, 1 week, 3 weeks, the Board interviewed and for the actual parole hearings, they became involved in the institution itself, in a misconduct—but there were 3 that I know of, this case and 2 others, that the Board did not go along with; and their adjustment in the institution was still satisfactory. And in each of those cases the Pardon Board went right along with us.

Q In the personal interview of Mr. Wheatley, did he show any repentance for this conduct?

A I would almost say not too much in the fact that he did not consider himself guilty of any crime, so he says. That is what he told the Board members.
ATTORNEY GENERAL McBRIDE: That is all.

BY REPRESENTATIVE LOPRESTI:

Q You say Mr. Duffy wrote to the—
A Board of Parole?
Q Board of Parole.
A You see, in February, the Board refused parole.
Q Let me ask this question. Are those letters merely routine letters, inquiring as to your action?
A From Mr. Duffy.
Q Yes.
A No. That is what I was going to say. It was through Mr. Duffy's letter to the Board—and that was August or September—that prompted the Board to review the case. Attorney Duffy, of Philadelphia, in his letter dated July 27, 1955, a two-page letter, pleaded to the Board. Do you want me to read that?
Q No, if it was a routine matter.
A Well, appealing to the Board to grant a review of the case, which was some months later. And the Board, upon reviewing the file, did grant a review of the case for the month of September.
REPRESENTATIVE LOPRESTI: That is all.

BY ATTORNEY GENERAL McBRIDE:

Q How much total time did he serve?
A Well, he served from February 19, 1954, until November 22, 1955.
Q Two years and about nine months?
A One year.
Q One year and nine months; that's right?
A Yes.

(witness excused)

. . . JOSEPH NISSLEY, previously sworn, recalled:

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Nissley, you testified that you did not recall any special listing. I call your attention to the case of James D. Crawford, No. 7330, in the bound volumes for January to June, 1950, and ask you whether that was a special listing?

A General, I do not know. It is seven years ago. I wouldn't be able to say. You see, some cases, General, if they did not get this in time, when we send the stuff to the printer, if they did not get a chance to print it, we would put this—we would put in an extra sheet like this, if it couldn't be printed in the calendars.

Q In any event, we can agree upon this, can't we, that the other cases preceding and following are printed, and this is entirely in typewriting?
A That is correct.
Q That is true, also, of Joseph Edward Santeli, No. A-67. That is all in typing, while the others are in printing?
A That is correct.
Q And that is true also of—
A I don't know, May 26, reargument granted, you see.
Q Yes.
A Now, that was refused in '49. Reargument granted on May 26th. Then it had gone to the printers; but nevertheless, this would have been advertised.

Q This was a reargument granted after refusal in 1949, reargument granted on May 26th?
A That's right.
Q That is not printed either?
A No.
Q That is also true of John Spapingi, 4293. That is entirely in typing, isn't it?
A Yes.
REPRESENTATIVE BELL: What year is this?
ATTORNEY GENERAL McBRIDE: This is the book for February to June, 1951. I only want to cover hurriedly the cases within this resolution.

BY ATTORNEY GENERAL McBRIDE:

Q That is true also of Domenic Diversa, A-499? That is in the book for the Board of Pardons for 1950.
A General, may I point out that this is a capital case.
Q I was just going to point it out to you.
A Yes.
Q That application was filed on September 5?
A That is correct.
Q And listed for the same month?
A Oh, yes.
Q September?
A Yes. They always did that in capital cases.
Q They were normally special listings, weren't they?
A Yes, sir.
Q Now—
A That is another capital case.
Q (continued)—Robert Clement Shuck.
A Yes, sir.
Q That was filed not on the regular 10th of the month before?
A That is correct.

BY REPRESENTATIVE BELL:

Q Would the reason for that be that the man was sentenced for electrocution?
A He was under sentence of death.

ATTORNEY GENERAL McBRIDE: That is a situation that very often arises. That is why capital cases are heard on special listings usually and decided expeditiously.

CHAIRMAN TOMPKINS: Were any of those cases that you referrred to before capital cases?

ATTORNEY GENERAL McBRIDE: No. The only ones were the ones we called our attention to.

BY ATTORNEY GENERAL McBRIDE:

Q This one, Clyde Crianbure was not a capital case?
A No.
Q This was on the list for—
A It was filed in August, August 31. It would have been on the October list. For some reason or other it was continued. When it was continued it was continued to the December Session, and it may have been an oversight that we didn't get it in.
Q But this is also typed?
A That is correct.
Q The others are printed?
A That is correct. I wouldn't call that a special listing.
Q Maybe it was.
A It may have been overlooked.
Q Maybe it was, but it was not under the type listing—
A No, but it may have been on one list before.
Q All right. Now, you spoke of not having a rule as to rehearings. Will you look at Rule 6, sub-section B; wasn't that your rule?
A Well, I don't know whether this is the rule that was in when I was there. This is a rule that—the present members of the Board—
Q I show you the present change. Isn't the present change, Rule 6, Section B, "Will be closely followed by the Board; no petitions for rehearing of cases will be considered for allowance unless there be new facts both subsequently, and also material not previously presented." This is the present Board's rule, but isn't the printed form which I show you now, the rule when you were Secretary?
A No. This is the one that was printed by the present Board. I don't know whether this was in our rules or not. I don't have our rules here.
Q Well, then, your best recollection is that you had no rule on the subject of rehearings?
A General, it has been two years since I have been there. I can't tell you whether these are the original rules or the rehearing rules. I know that we had printed rules—
Q But this on its face, on the last page says, "Rules Adopted February 20, 1935; last revision, October 19, 1951." That is this paper, isnt' it?
A Well, that purports to be the rules of the Board of Pardons.
Q As of the time you were Secretary?
A No.
Q It says, "Last Revision, October, 1951."
A I'm sorry, that is self serving, because I do not know whether it is or not.
Q Then, would it be your position that there were no rules at all when you were Secretary, governing rehearings?
A No, I wouldn't take that position; but I am not saying that those are the exact rules, because I do not know. I do not have a copy of the rules here that we used or that had my name on them at the time.
Q Now, here is a folder, part of which was offered in evidence. John Cominsky, application, A-1863, and contains a paper in it. Whose handwriting is that?
A I don't know, sir.
Q Do you know how it got in the folder?
A No, sir.
Q It says, "Calendar T-U-E-S, April 21, 1953; hold for Dave Walker; refused in May, '53; approved June, 1954."
A I don't know that handwriting, sir; I have never seen it.
Q And you have no explanation as to how that got into the folder?
A No.
Q Do you recall this case?
A This does not ring any bell with me.
Q Did you ever talk to Dave Walker about any case?
A No, sir.
Q Now I show you a folder in which there was read into the record a copy of a letter purported to be signed by you. Will you read that aloud?
REPRESENTATIVE BELL: Will you identify the file, General?

ATTORNEY GENERAL McBRIDE: Yes. It is the file of Benny Divone, A-914.

A "John Patrick Walsh, Esquire, 1732 Commercial Trust Building, Philadelphia 2. March 20, 1952.

"Dear John Patrick:

"As I said, what we would do in the Benny Divone application, Bill brought up this application and requested that—"

Q Who is the "Bill" mentioned therein?

A Well, there is only one Bill on the Board. That was Bill Livengood.

Q Is it usual or was it usual during your term as Secretary that commitments be given formally for public hearings?

A Well, this had been heard before, this case had been heard before.

Q And so there was a reargument?

A Yes—no. It was heard in '51. Then it was on the March list. And then it was continued from the March list. Evidently—I don't know.

Q There was a rehearing granted, wasn't there?

A A reargument was granted for the June Session, evidently. We had heard the case, and everybody knew what it was about. And the three members of the Board wanted this man to serve four years, and they directed me to write this letter, telling him that we would hear it again in June; and that at the end of four years, they would grant this commutation.

Q That was not joined in by the Attorney General, was it?

A Yes, it was—he was opposed.

Q He was opposed?

A Yes; and there was Livengood and Smith.

Q Two voted for reargument, did they not?

A Yes, sir.

Q One voted against?

A Yes, sir.

Q What happened to the fourth vote?

A I don't know, sir.

BY REPRESENTATIVE BELL:

Q What year was it?

A '52.

BY ATTORNEY GENERAL McBRIDE:

Q Is it usual for the Board to write counsel a letter, stating what the Board is going to do prior to the public hearing at which it will do it?

A Well, they had heard the case.

Q Yes, I agree.

A They had a public hearing on it.

Q That is right, and they were going to hold another one, weren't they?

A They were going to hold another one. They told him—he asked for credit for jail time, which was not given, contrary to the Act of Assembly.

Q All right.

A And so, in order to give him credit for the jail time, they granted the reargument and gave him the six months. That is what it amounted to.

Q Now, I will repeat my question. Is it usual to write a letter for the applicant, telling him what the Board is going to do when it hears the case?

A No.

Q Was this unusual?

A Yes. I was directed by the Board to do it.

Q But you were directed by the Board prior to the reargument to tell counsel what they were going to do at a reargument?

A Yes, because they had decided at the March Sessions what they were going to do. They were going to give the man credit for his six months.

Q Before they had heard it again?

A Yes.

Q Before they had had opportunity to hear opposition to it?

A I don't think there was any opposition. If I may look at my records—

Q Sure.

A Do you have the '52?—

Q I think they are both here.

A No, it isn't. I want '52, March and June.

Q This was first heard in June, 1951, was it not?

A Yes, sir.

Q What action was taken?

A It was refused.

Q Now, then, it was heard again in March, 1952?

A Well, I don't know unless I look at the calendar, and see; but it was on the March list.

Q I thought that was—

A It was on the March list.

Q You said that there was some decision that was arrived at as to what they were going to do, and that decision was arrived at in March, 1952.

A. That is correct.

Q When was the reargument granted?

A It was after the March Sessions.

Q Yes, So that, despite the fact that the rules provide that a case cannot be heard until the expiration of one year, this one was heard before the expiration of one year, wasn't it?

A Oh, sure. It wasn't anything—

Q Now, what appears—

MR. KOHN: Let him finish the question.

ATTORNEY GENERAL McBRIDE: Certainly.

BY ATTORNEY GENERAL McBRIDE:

Q Go ahead and finish, Mr. Nissley. You said that wasn't unusual? Is that what you were going to say?

A No, I wasn't going to say that. On occasions when they have had applications for reargument, they have granted reargruments.

Q What appears in there as to why they granted reaguments? Anything?

A No, except that from what I see in the record, it was to give the man credit for six months' jail time, which he didn't get.

Q That wasn't done in March, was it?

A Yes. That is what was agreed up in March, that they were going to have another hearing in June and give him six months' jail time which he didn't have before.

Q And prior to doing that, they notified counsel as to what they were going to do?

A Yes.

BY CHAIRMAN TOMPKINS:

Q You only had a six months' rule at that time, did you not?

A In what year was that?

ATTORNEY GENERAL McBride: '52.

A (continued) Mr. Tompkins, I don't remember when that was changed from six months to a year.

Q Was it during your term that they changed the six months to one year?

A Yes, sir.

BY ATTORNEY GENERAL McBRIDE:

Q This last revision, October, 1951, says 12 months, Rule 6-A, applications—

BY CHAIRMAN TOMPKINS:

Q Mr. Nissley, I think you recited to me the basis for that six months to one year.

A I think it was after the June Sessions of '45, when Governor Bell was then the Lieutenant Governor, and we then had this terrific upsurge of cases, about 360 or 370 in the June Sessions. We sat from Monday through Thursday. He said, in order to lighten this load, because these fellows continued to apply after six months, we will lengthen it up to 12 months. It did have that effect. I think it was after the June, 1945 Sessions; it may have been in September or October of 1945 that we changed it to one year.

BY ATTORNEY GENERAL McBRIDE:

Q Well, then, it was one year in '52?

A Yes; but the Board could grant arguments on the motion of two members at any time, even the next month.

Q Will you tell us what if any reason appears either in the folder or this record as to why the rehearing was granted within the year?

A The only thing I can do is to guess. I don't know. The only reason I could say is that it was refused at the March Sessions and it was decided at that time, because these notes were made for me at the time of the hearing, reargument, "June; don't circulate," that is, that they had agreed that there was to be reargument in June, and the only purpose I could think of now would be that it was for the purpose of giving him credit for the jail time which he did not have.

Q To get this straight, it was turned down in March?

A That is correct.

Q There was to be no circulation; it was automatically to be put on in June?

A That is right.

Q Then, why was it circulated?

A It wasn't.

Q I thought you said before that it was circulated in March?

A I'm sorry. I was in error then. At the June Sessions, General, all members of the Board voted in favor of a commutation as of September 28, 1952, which would have given him his five years' sentence or would have given him four years with his jail time.

Q Was there anything to prevent them from doing that if that was their decision in March? Was there any reason that they couldn't have done that in March?

A No.

Q They didn't have to have a reargument in June, did they?

A No.

Q Was the Attorney General present at the time that decision was arrived at?

A Evidently, because all members were present.

Q You mean at the hearing in March?

A Yes, sir.

Q What do you mean, then, when you say that the Attorney General had protested, but that you have a commitment from the three members of the Board?

A Well, evidently—I don't remember what it was. It is so long ago. It is more than five years ago.

Q But the commitment was to be effective no matter what turned up at the June meeting, wasn't it?

A Yes, to give him the six months for the jail time. They felt it was an injustice.

Q Is that all he got?

A He didn't get credit for it at the time he was sentenced. That was a Judge McDevitt sentence, I believe. He was sentenced by Harry McDevitt.

Q What was the sentence?

A 7½ to 15 years.

Q How much time had he done at the time that he was let out?

A He had done 4 years.

Q Does that sound like knocking off six months for commitment time?

A Well, you see, he was not given his six months from the date of his original sentence. In connection with the fact, I guess it was ninety days, somewhere along there.

Q Well, 3 months, 6 months, or 9 months, if that was knocked off and that was the only thing that he was going to get, he would have to do almost seven years, wouldn't he?

A No.

Q Wasn't the sentence 7½ to 15?

A Yes.

Q And you say the only effect of the Board's action was to give him the commitment time? If the commitment time was 6 months, then that means he would have had to do 7 years.

A That's right.

Q So that they gave him a whole lot more than the commitment time?

A Yes.

ATTORNEY GENERAL McBRIDE: That is all.

THE WITNESS: But I see here what they were trying to do. They were trying to bring the sentence in line with the one from Delaware County so that they would both expire at the same time.

BY ATTORNEY GENERAL McBRIDE:

Q In effect, they knocked almost 3 years off his sentence, didn't they?

A 3½ years.

ATTORNEY GENERAL McBRIDE: That is all. I just want to see if Mr. Nissley might know how this letter to Mr. Meehan got in the Gore file.

(discussion off-the-record)

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Nissley, it has been brought out in this hearing that a copy of a letter sent by Mrs. Gore to Mr. Meehan appeared in the folder of the Board of Pardons. Now, it

appears also that that letter bears a stamp, "Received, Board of Pardons," et cetera.

Do you personally recall how that letter got in the folder; or, secondly, what, if anything, would the presence of that stamp indicate?

A I have no personal recollection of the letter, because we received hundreds of letters. But if it has this stamp on it, "Received, Board of Pardons," that would indicate to me that it arrived in the course of the mails, was opened, and the girls stamped every letter that came in with that stamp. And then it was reviewed by me and placed in the file.

BY REPRESENTATIVE BELL:

Q Could it also appear that that would be a carbon copy of an original?

ATTORNEY GENERAL McBRIDE: We agreed that it was; but being a carbon copy, that is what made it look odd that it happened to be in the Board of Pardons' folder.

REPRESENTATIVE BELL: The reason I asked that sometimes attorneys will send information copies. Perhaps others do likewise.

ATTORNEY GENERAL McBRIDE: That is normally the kind that would not be such. It is not addressed to the Board of Pardons. But I think Mr. Nissley has done the best he can about it. He cannot be expected to remember everything. He says he does not remember this letter, and if it had the stamp, then it would have been received in the mail. That is the best we can do about it at this point, unless someone else does know about it

CHAIRMAN TOMPKINS: Daylight Saving Time is going into effect on Sunday. We will recess these hearings now until 10:00 o'clock, Daylight Time, Monday.

(The following transpired at side-bar)

CHAIRMAN TOMPKINS: General, we have been very fortunate. We have been trying to get Mr. Meehan to come in on Monday. We have another case that we want to bring up that will take perhaps 15 minutes or an hour for presentation.

ATTORNEY GENERAL McBRIDE: Which is it?

MR. KOHN: I have had trouble with that before.

ATTORNEY GENERAL McBRIDE: You made a solemn agreement.

MR. KOHN: I didn't get any of yours. You put 15 cases in and I didn't get any one of them.

ATTORNEY GENERAL McBRIDE: You don't want to tell me. All right. But you are violating your agreement.

MR. KOHN: So did you, General.

ATTORNEY GENERAL McBRIDE: No, I did not. If you want to stick one case in at the last minute, you can just stick it in.

CHAIRMAN TOMPKINS: What else do you have?

ATTORNEY GENERAL McBRIDE: I still want to find out whether the Supreme Court will be finished this week, because Chief Justice Cohen wanted to appear personally if he could. I wanted to call him if the Supreme Court is adjourned. Otherwise, I will have his letter.

CHAIRMAN TOMPKINS: Is there anything else other than that?

ATTORNEY GENERAL McBRIDE: I don't know of anything.

CHAIRMAN TOMPKINS: You don't know of anything else?

(discussion off-the-record)

ATTORNEY GENERAL McBRIDE: Since the hearing is going to recess until Monday, and in view of the arrangement that we have that, if the Supreme Court is still sitting, Mr. Justice Cohen so sent a letter, we do not know yet whether the Supreme Court will be finished to permit him to personally appear on Monday. If they are finished, I will request him to come up; and if he doesn't come up, then, in accordance with the permission granted by the Committee, we will submit a letter by him covering the subjects as to which I would question him.

In addition to that, having reserved the right to present the testimony of Mr. Lord, we expect to have him here on Monday. However, if it is impossible, for any reason whatever, for us to have him here, we are not requesting any further extension for the purpose of getting him here.

CHAIRMAN TOMPKINS: All right, General.

(End side-bar conference)

(adjourned)

This is to certify that the proceedings and evidence are contained fully and accurately in the notes taken during the hearing on the above cause before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and that this copy is a correct transcript of the same.

JOSEPH KIESLICH

PATRICIA L. SAYER

Reported by:

Joseph Kieslich
684 City Hall
Philadelphia 7, Penna.

Patricia L. Sayer
P. O. Box 496
Harrisburg, Penna.

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

AT HARRISBURG, PENNSYLVANIA
DATE APRIL 29, 1957

VOLUME XV

PATRICIA L. SAYER
P. O. Box 496
Harrisburg, Penna.

CEdar 2-2832

INDEX

Committee's Witnesses	Direct	Cross	Redirect	Recross
David Kohn (Recalled)	2681			
Austin A. Meehan	2688	2701		
Frank R. Hean (Recalled)	2712			
James A. Finnegan (Recalled)	2758			

James Evans (Recalled) 2794

Frank R. Hean (Recalled) 2801

EXHIBITS

Committee	Identified and Received
Exhibit No. 40—Correspondence file in re John Francis McShane	2716
Exhibit No. 41—Letter from Frank R. Hean, dated August 23, 1956	2776
Exhibit No. 42—Letter from Frank R. Hean, dated February 28, 1957	2778
Exhibit No. 43—Letter from Thomas M. Reed, dated April 3, 1957	2782
Exhibit No. 44—Letter from Frank R. Hean, dated April 5, 1957	2785

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 10:00 a.m., Monday April 29, 1957

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR WILLIAM Z. SCOTT.

SENATOR JOSEPH J. YOSKO.
Member of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

VICTOR H. WRIGHT, ESQUIRE, Deputy Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel).

JAMES K. ARNOLD, ESQUIRE, 2109 Market Street, Camp Hill, Pennsylvania
For—Committee (Assisting Counsel).

CHAIRMAN TOMPKINS: The hearing will come to order.

While waiting for exhibits which we requested early this morning to come down from the Reporter's office, Mr. Kohn, do you have another matter to take up so that we can proceed?

DAVID KOHN, recalled

THE WITNESS: I think I have been sworn.

I'd like to take this opportunity to testify in the matter of the case of Bowman Francis Kennedy in which I was counsel and in which Mr. Harner testified that I got in touch with—

BY ATTORNEY GENERAL McBRIDE:

Q What was the name?

A Bowman Francis Kennedy. Mr. Harner testified that I called him and asked for favorable consideration and then stated that I had asked for no commitments and he didn't make any.

The fact is I did call Mr. Harner. He and I, as I stated, had gone to school together, both he and his wife, college and law school, and then we practiced together at this Bar Association. At that time as I recall we had a real estate deal on. It took quite a few months and there were several calls between Mr. Harner and myself, back and forth.

I called Mr. Harner and told him that I felt that this case was coming up and had been up twice before and that the fellow had lost four fingers, and all the facts I told him were in the record. I felt he should look at it because the father of the applicant thought that he had the wrong lawyer, that is an attorney of the wrong political faith. And I looked at the record and I felt that the record justified some action on it. And I would like to have him look into it to see whether that was the case or whether there was something that I didn't know in the files.

Mr. Harner said he made no commitment, and I didn't ask any. It was turned down and I never talked to him about it thereafter. Those are the facts as near as I can recall them.

I felt that I should be given an opportunity to keep the record straight as to how this thing came about.

BY SENATOR SCOTT:

Q Well, did Mr. Harner make any statements when he was testifying that you didn't agree with?

A Yes, I will say, Senator Scott, that he did. He said that I asked him for favorable consideration and then in the next breath he said that he didn't give any commitment and I didn't ask for any. It was probably an inference on his part because after you know a fellow and go to school with him for thirty-one years, and just talk to him about cases, it isn't a request for favorable consideration. I never asked him for favorable consideration. I asked him

to look at the facts and find out what the facts were because I just couldn't understand.

The father of the applicant felt that he had counsel in the wrong political affiliation on the case and that was borne out by a letter which I received later in which he fired me and said that he got a big wheel in Blair County.

BY ATTORNEY GENERAL McBRIDE:

Q Have you got that letter?

A No; it's in the folder.

Q Well, I gather your statement, like Senator Scott's, in the matter was pretty much the same as Mr. Harner's, but you feel that Mr. Harner added something that you felt was not present and that is that you asked favorable consideration.

A He added that, yes.

Q Well, you didn't call him for unfavorable consideration?

A No, definitely not.

Q And there is a difference between asking for favorable consideration and asking for a commitment?

A He didn't say I asked for a commitment.

Q He said that you did not ask for a commitment?

A That's right.

Q But the mere statement that you did not ask for a commitment does not mean that he said that you did not ask for favorable consideration?

A Well, I don't know, if you want to play on words, Mr. McBride.

Q Well, I'm not. Are you?

A I talked to him about the case as I stated. I told him to look at the facts and I really felt that the facts were there. The boy lost four fingers in the tag shop, and as far as I knew his institutional record was good. The district attorney did not oppose it. The judge didn't oppose it. There must have been something behind the case that I didn't know of, and I asked him to look at the case and see what the trouble was.

Q Well, everything you told him was calculated to get favorable consideration. I'm not saying that it was improper, but—

A That's your inference.

Q Weren't you making an argument—

A No, no.

Q Well, then why did you tell him about the boy losing four fingers?

A That was all in the record. I was telling him the facts in the record; that I couldn't understand why the Board hadn't acted on it favorably twice before. There must be something in there, and I asked him to look into the facts to find out what the facts were. Either I was in the wrong political affiliation or there were facts in there that I didn't know. Subsequently, I looked at the file and I found out what the troube was.

BY SENATOR YOSKO:

Q Well, Mr. Kohn, if you didn't ask for his favorable consideration directly, indirectly you wanted to see the fellow get a break?

A I wanted to see justice done. I looked at the folder later, and I don't blame the Board, I'll tell you very frankly, because there was a confidential report in there that I didn't have access to before.

BY ATTORNEY GENERAL McBRIDE:

Q Now the lawyer who succeeded you had represented him before you got into the case?

A No, I dont think before the Board. It may be. I think if you will check it you will find the very lawyer who succeeded you represented him before you did.

A It could be, General McBride, I know that.

ATTORNEY GENERAL McBRIDE: That's all.

(Witness excused.)

CHAIRMAN TOMPKINS: Now, General, while we are waiting here for the exhibits to come, do you have some information that we had previously requested from the Governor's office?

ATTORNEY GENERAL McBRIDE: Yes, if you hand me the letter that was sent in, I'll explain why this supplemental letter is sent.

Under date of March 12, I presented to the committee a letter from David Randall, Secretary to the Governor, saying, "Please be advised the recommendations of the Board of Pardons that the death sentences of Darcy, Zietz and Foster be commuted to life imprisonment were received in the Governor's office, Harrisburg, shortly after noon on Saturday, September 29, 1956, and were returned approved to the Board of Pardons from the Governor's office at 6:30 p.m. on the same day."

I was subsequently asked by the committee to get information that the committee felt was not implicit in that letter as to where it was that the Governor signed the commutation, and the time.

Now this subsequent letter therefore says, "Please be advised that the recommendation of the Board of Pardons that the death sentence of Darcy, Zietz and Foster be commuted to life imprisonment were received in the Governor's office, Harrisburg, shortly after noon on Saturday, September 29, 1956, were signed between 5:30 p.m. and 6:00 p.m. by the Governor at the Executive Mansion, and were returned approved to the Board of Pardons from the Governor's office at 6:30 p.m. on the same day. Sincerely yours, David V. Randall."

MR. KOHN: Was that the Executive Mansion in Harrisburg or at Indiantown Gap?

ATTORNEY GENERAL McBRIDE: I don't know of any other Executive Mansion except at Harrisburg and I certainly assume that that's so, and it is my information.

CHAIRMAN TOMPKINS: Well they sometimes do refer to Indiantown Gap as the Executive Mansion, too, General.

ATTORNEY GENERAL McBRIDE: I have never understood of what importance it was. Everything I have heard indicated the Executive Mansion here in Harrisburg on Front Street. And that is what I understood the letter to mean.

CHAIRMAN TOMPKINS: There have been some rumors to the effect and printed rumors, as a matter of fact, that the Governor on this date was out to a football game and did not receive them until sometime after he returned.

ATTORNEY GENERAL McBRIDE: Well, that part is definitely answered in both letters, that he received them shortly after noon.

CHAIRMAN TOMPKINS: Well, it says received in the Governors' office shortly after noon, but they were not signed by the Governor until between 5:30 and 6:00 and

they are not sure what time the Governor received them.

ATTORNEY GENERAL McBRIDE: All right, such as it is—

CHAIRMAN TOMPKINS: But it doesn't show what time the Governor received them.

(Short Recess.)

AUSTIN A. MEEHAN was duly sworn, examined and testified as follows:

CHAIRMAN TOMPKINS: Do you have any questions Mr. Kohn? Do you want to question this witness first, Senator Yosko?

SENATOR YOSKO: You go ahead, Mr. Kohn.

DIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Meehan, what is your full name?

A Austin Andred Meehan.

Q And do you have any official position in the City of Philadelphia now?

A Not now. I don't have any position with the political organiaztion, not now.

Q Did you, in May of 1953, receive a letter from Lester Gore?

A Yes. I was a representative from the 35th Ward of the Republican Central City Committee.

Q Well ,did you know Lester Gore?

A I did.

Q And you were subpoenaed here to appear in connection with a letter, a carbon copy of which is in the file of the Board of Pardons as having been received about May 21, 1953, and the original of which was evidently addressed to you? Do you recall ever having seen that letter?

A Yes, I would recall reading it.

Q Do you know how that letter got in the file of the Board of Pardons?

A No, I do not, except if I would have mailed them a copy of it.

Q Do you think that you might have mailed them a copy?

A Yes, I might have mailed them a copy. I wouldn't say that I did. I dont' generally do that ,but I might have mailed them a copy at the time. Most of these letters my son answers, and he is more efficient than I am. He is a lawyer.

MR. KOHN: Any questions, Senator Yosko?

BY SENATOR YOSKO:

Q Mr. Meehan, after we heard the Lester Gore case. no doubt it was called to your attention in Philadelphia and you made a statement in connection with it in which you said that you talked to Members of the Pardons Board on behalf of Lester Gore. Did you talk to Members of the Pardons Board on Mr. Gore's behalf?

A Well, do you mean my conversation with Mr. Darling of the Bulletin?

Q I don't know. This story appeared in the Philadelphia Bulletin.

A Just recently?

Q Yes. The paper that I have here is dated Tuesday, April 23rd.

A Of this year?

Q Yes.

A Yes, I had that conversation.

Q With whom?

A With Mr. Darling of the Bulletin.

Q Of the Bulletin?

A Yes.

Q You are quoted as saying, "Certainly I tried to help him." You are referring to Gore?

A That's true.

Q ". . . . as I tried to help thousands of other people. I didn't think he should have gone to jail."

A That's right.

Q And then it goes on to say Meehan denied that he had much influence with Members of the Board, but he admitted he went to see them in person after receiving Mrs. Gore's letter.

A That's right.

Q Now did you go to see these Members of the Pardons Board on behalf of Mr. Gore.

A Yes sir.

Q And which Members of the Pardons Board did you talk to?

A Well ,I would say I probably talked to them all.

Q To them all?

A Yes.

Q Well, who were they at the time?

A Well, I would say at that time there was probably Livengood, Gene Smith, Truscott, I think. There was one other Member. I don't just know the particular names on the Board at that particular time.

Mr. KOHN: Lieutenant-Governor Wood.

BY SENATOR YOSKO:

Q And Lieutenant-Governor Wood?

A Yes.

Q Did you see them individually?

A Yes, I probably did.

Q Did you see them here at Harrisburg?

A Yes sir.

Q And what did you say to them?

A Well I spoke on behalf of Lester Gore, whom I thought had been unfairly punished or over-punished. I think he had circumstances which certainly would give the Board every reason to give him some consideration. He had a mother who was dying at the time. He had a boy who was graduating. He had a daughter who was going to have a baby. And all of this happened before he got out. And he had served approximately eight and a half months of a year's sentence for perjury.

Now, of course, we had a similar case there at that particular time where fellows were convicted of perjury, found guilty and were only fined $250 and received suspended sentences. And here was a man who had served eight and a half months. Certainly he was entitled to some consideration. His family was.

Q Was it in the same case?

A It was the same city.

Q Who was Mr. Gore?

A Mr. Gore was on the Zoning Board of the City of Philadelphia. He worked in the Department of Buildings, and he was tried on another case which was outlawed by the statute of limitations and of course they didn't try him on the case he was originally supposed to be tried

on. So, through some measure they got him into the perjury charge at that time.

At that time, as you know, in Philadelphia, you could pretty near get anybody to believe anything, because we had a couple of very clever young fellows there who were very good government men. They were for clean government and they still are. They were for lower taxes and they still are. But they were able to convince people.

Q And what was Mr. Gore as far as a political organization is concerned at that time?

A At that time I think Lester Gore was a Ward Leader of the 51st Ward, Philadelphia.

Q Well, Mr. Dilworth was up here last week and he testified that Mr. Gore was engaged in a racket in Philadelphia.

A That could be so, and that wouldn't make it true. Mr. Dilworth said things about me that were lies and I think today he admits to them. That wouldn't make it true because Dilworth — you don't think everything Dilworth says is true, Mr. Yosko, do you?

Q He said it under oath and I have a right to believe him.

A Well, that wouldn't make any difference with him. That wouldn't make a bit of difference. Under oath to him doesn't mean a thing.

Q Anyway, when Mr. Gore was tried, he didn't plead guilty, did he?

A No.

Q He was tried?

A That's right.

Q The jury found him guilty?

A That's right.

Q And he was sentenced to, what was it, a year? One to three years?

A One to three. He served eight and one-half months of it.

CHAIRMAN TOMPKINS: One to three years is correct.

BY SENATOR YOSKO:

Q And then Mr. Gore subsequently got a pardon?

A Yes, but you can't blame that on me.

Q I'm not trying to blame that on you. I'm not trying to blame anything on you.

A All right.

Q I'm just asking questions. And I am asking these questions on the basis of statements that you yourself made.

A But you are assuming that I made them. Now you don't know what statements I made, Mr. Yosko.

Q You made statements in the paper that you talked to Members of the Pardons Board on behalf of Mr. Gore and you testified that—

A I did not make any statement.

Q Now wait a minute.

A I didn't make any statements that I did any good by testifying to them because evidently everything I did, everything I used in my argument to help Mr. Gore all occurred before Mr. Gore got out. His daughter had the baby. The boy graduated, and the mother died. Then he got out. And I know when John Fine signed it, he didn't sign it for Aus Meehan. Now there is one guy I know didn't sign it for me, and I didn't ask him either. I didn't get down that low.

Q Mr. Meehan, Lester Gore subsequently got a pardon?

A Yes.

Q Did you talk to any Members of the Pardons Board when the application for the pardon was filed?

A Well, Senator, how would my memory go back that far? I would say I did everything in my power to help Mr. Gore. I talked to anybody. I would have talked to you if you were on it, to get him out of jail and get a commutation. I would have talked to anybody to help Lester Gore because I thought he was punished too severely to begin with, and I didn't think he ought to have been punished. And certainly I was more convinced after I saw a similar case under Mr. Dilworth only get fined $250 and he didn't serve any time at all. To me that ain't good justice.

Q That's a matter for the judge and we are not investigating that man.

A What?

Q That's a matter for the judge to impose the sentence; it is not a matter for us.

A Well, it's a shame we don't have different judges, I guess.

SENATOR YOSKO: That's all.

CHAIRMAN TOMPKINS: Senator Yosko, I would like to clarify a point that you asked Mr. Meehan. When you referred to Mr. Gore, the testimony of Mayor Dilworth that Mr. Gore was engaged in a racket, did you mean by that his taking alleged bribes in the performance of his duties in the Zoning Ordinance office?

SENATOR YOSKO: The issuance of zoning permits, yes.

REPRESENTATIVE BELL: Mr. Chairman, I must speak for the purpose of the record. I haven't heard anything other than Mayor Dilworth's opinion that Mr. Gore did take such money. I don't think it was proven in court, and I don't think it should have anything to do with this investigation.

SENATOR YOSKO: Mr. Bell, I don't agree with you on that because, as I understand it — if I am wrong you can correct me — Mr. Gore was called before a Grand Jury on a Grand Jury investigation and apparently didn't tell the truth. And during the trial on perjury these facts were brought forth to indicate that he didn't tell the truth to the Grand Jury. And that's what constituted the perjury.

REPRESENTATIVE BELL: Well, Senator, was that in the record of our hearing last week?

REPESENTATIVE LOPRESTI: Oh yes. Mr. Dilworth even mentioned the witnesses who appeared and testified as having given money to Mr. Gore directly, and some of it indirectly, if you will recall.

REPRESENTATIVE BELL: I withdraw my objection, Mr. Chairman.

BY REPRESENTATIVE LOPRESTI:

Q Mr. Meehan, when you talked to various Members of the Pardons Board on behalf of Mr. Gore, did you express any political importance to Mr. Gore's being out of jail?

A Well, I wouldn't say that I would put it on that basis because I don't think in any favor or anything I have ever done that I ever questioned a man whether he was a Democrat or Republican, or what his party was. I think the Attorney General could vouch for that.

ATTORNEY GENERAL McBRIDE: I can vouch for that.

THE WITNESS: But I never put my services on that basis.

BY REPRESENTATIVE LOPRESTI:

Q So that when you approached the various Members of the Board you did so on the merits of the case and not because of any political influence that you yourself or Mr. Gore might have?

A Absolutely. Mr. Gore was never with me politically, to be honest with you.

Q The article which Mr. Yosko read which refers to your helping thousands of other people; I don't think that you intended that to mean that you had been before the Pardons Board for a thousand different people?

A No. I haven't been in Harrisburg fifty times in my life, but I never was interested in anybody that I didn't come up personally.

Q Your statement, Mr. Meehan, says, "Certainly I tried to help him, just as I have tried to help thousands of other people." These thousands of other people were not with the Pardons Board?

A No, that was people in general.

BY SENATOR YOSKO:

Q Is this the only case you spoke to Pardons Board Members about, or did you talk to them about other cases?

A Oh, I would say in my time I talked to them, maybe several times. I didn't ever make a practice of coming up here but I might have talked on several occasions for different people when their people had come to my home and asked me to say a word on their behalf. I wouldnt' know them any more than you would, Senator, but if they pleaded a good cause, and I thought they had some good in them, I would come up here and I would be up next week again, and I wouldn't hesitate to go into the Democratic Board. I would go in on the basis that I was trying to help them and their family. This would be a hell of a country if we couldn't just help people. My God, we might as well close up shop and every body hang up his hat and coat and give up.

Q In other words, if you think a case has merit and somebody comes to you for a favor and you feel that it does have merit, you would go to bat for him?

A Senator, I think if you talked to your Democratic representatives in your particular district and you talked to the people in the district where I live, I think you will find that would be their opinion too; that I never put anything I do on a political basis.

BY REPRESENTATIVE LOPRESTI:

Q Then let me ask this question: Mr. Meehan, do you believe that simply because a man holds an office in a political party, perhaps an elected office, that precludes him from doing any service to other people in his community?

A No, I certainly do not.

Q You think that you have that right even though you would happen to be a leader?

A I think that's an obligation.

Q You think it's an obligation where you see an injustice, to speak up?

A Sure, sure.

BY REPRESENTATIVE BELL:

Q Sheriff, how long do you last if you don't assume that obligation?

THE WITNESS: Well, even that doesn't cure all your weaknesses sometimes. Sometimes you get licked with doing all that.

CHAIRMAN TOMPKINS: Senator Fleming?

SENATOR FLEMING: No questions.

SENATOR SCOTT: No questions.

CROSS EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q Mr. Meehan, you understand fully that this is not an investigation of Austin Meehan?

A I understand that.

Q All of us are trying to find the facts about the Pardons Board.

Now you say that you talked with Mr. Truscott. Was that at an open hearing?

A Well, I would say, Mr. McBride, it was probably before the hearing. I mean I wouldn't go up in front of the Bar and make my statement because I have no right, legally, or probably any other way, to do it.

Q Mr. Truscott, Mr. Wood, Mr. Livengood and Mr. Smith—when you talked to them, did you talk to them alone or while they were together—

A Yes, that's right.

Q . . . with the attempt to convince them that there was merit in the application?

A Absolutely.

Q Now you did that on a number of occasions with these self-same members of the Board of Pardons?

A That's right.

Q On any occasion, what did they say to you?

A Well none of them could give me assurance that they would let Mr. Gore out or let anybody else out whom I was interested in. All they would do is listen to my story, and as I said, with the Gore case, I pleaded on the fact that Gore's mother was dying, his boy was graduating and his daughter was expecting the stork. I pleaded on those conditions, and every one of the things happened before he got out. I don't know that I got him out. I said a word on his behalf. Now, what am I going to do if somebody says, "Well, you got Gore out?" I don't know whether I got Gore out or not. Fine turned it down. He refused to sign it, and you know I wouldn't walk from here to that spittoon to get Fine to sign any thing. You know that. And I'd tell Fine that and I never was bashful.

Q Now you knew these men, however, through politics?

A That's right.

Q And each of these men to whom you talked knew of your connection in politics in Philadelphia and with the Republican Party?

A That's right.

Q And each of these men to whom you talked knew of your connection in politics in Philadelphia and with the Republican Party?

A That's right.

Q Would you say about how many times in connection with Pardons Board applications you spoke to Members of the Board of Pardons?

A Oh, I would say maybe a half dozen times in my political career that somebody asked me.

Q In practically the same way as you have described before?

A That's right.

Q And with the attempt to convince them the case was meritorious?

A That's right. In all of the other cases I would say they had had no publicity and nobody even knew whom they were. The only case that got publicity, of course was Gore, because he was a political factor.

Q Do you feel that in these cases on which you did speak to these Members of the Board of Pardons that they did give preference because you had spoken to them?

A General, there wasn't any way I could tell that. They would say they would give it consideration.

Q How was the batting average?

A Oh, not as good as Witkin and McBride.

Q Very much better than McBride.

A You have more customers because they thought you were a very fine lawyer, and I did too. I can't understand why you took this job. I know you're too good a lawyer for this job. You know I'll say what I think. I might get thrown out, but I will say what I think.

Q You won't get thrown out of any place that I have anything to do with.

I know that you are one political leader that whenever you wanted to do a favor you never asked anything in return.

A That's right.

BY SENATOR YOSKO:

Q Mr. Meehan, you feel that, as an American citizen, you have a right to intercede on anybody's behalf that you want?

A I certainly do and I think when that system stops, we've got a bad government.

Q And do you think that you did anything improper by talking to these Members of the Pardons Board?

A I certainly do not. I certainly don't think I did anything improper. As I said, I would do it all over tomorrow.

BY REPRESENTATIVE BELL:

Q Sheriff, you stated that Mr. Gore was not with you politically. Can you explain that?

A Well, I mean on the interfactional fights in Philadelphia he never had a tendency to lean to my side of the picture, on the side that I was on.

Q Well, those interfactional fights, were they as bitter as the Republican-Democrat fight?

A Well, they are about the same, you know, just according to how far you get into them.

Q Therefore, you had no political debt to Mr. Gore?

A None whatever.

Q In this newspaper article you stated that you helped thousands of people. Do you desire to tell us how you helped them?

A Well, of course, I don't think that would help the situation.

Q No, no, I mean a general statement.

A Some political leaders are in a better position to help people than other political leaders. I know of political leaders in Philadelphia who hardly get enough of a salary to exist themselves, so they can't help people too much. Fortunately, I have been in business all my life, my father and six brothers, and I wouldn't say we have done bad. We don't have as much money as Matt McCloskey and them guys, but we've done all right. Now I could help a few people that other little fellows couldn't help.

Q Mr. Meehan, do you think that Matt McCloskey would have the same right to ask for favorable consideration as you did?

A I do. The only thing is we don't deny it; we admit to it. You don't have to be ashamed of helping people.

Q Well, he said the same thing practically, that you have said; that as an American citizen he feels that he has a right to intervene.

A That's right.

BY ATTORNEY GENERAL McBRIDE:

Q Now my batting average, Aus, did you check up on that?

A Yes, and it's a damn good one.

Q Do you think, for instance, I had some influence with the Republican Board of Pardons?

A No. You have it good up here. (Witness indicating by pointing his head). That is the reason you won. Of course, I wouldn't put it past the law to use a little trickery too, you know.

Q How about me? Do you think I use it?

A No. you are a damned good lawyer. You can win cases on your own merit. You're a good lawyer; so is Witkin a good lawyer.

BY CHAIRMAN TOMPKINS:

Q Mr. Meehan, I'd like to read you a couple of statements and then ask you a question.

I have here an article from the Evening Bulletin, March 27, 1957, in which it states:

"A contractor told the Civil Service Commission yesterday he received a construction permit after paying $10.00 to a building inspector in the Department of Licenses and Inspections.

"Richard K. Batchelor, of 3729 Grandview av., Langhorne, said he gave the money to John M. McDevitt, Sr., 66, of Delray st. near Proctor Road, Somerton, father of Councilman John M. McDevitt, Jr.

"The elder McDevitt was dismissed from the department January 3 by former Commissioner Walter S. Pytko, on charges of accepting gratuities in violation of the city charter. He is appealing the dismissal order.

"Called to the stand by Assistant City Solicitor James Lightfoot, Batchelor told of meeting McDevitt on June 5, 1956 at 4307 Palmetto av., where Batchelor's workmen were installing a retaining wall.

"Batchelor said he made the date with McDevitt in a telephone conversation the night before after McDevitt checked and found the men had no permit for the job. Batchelor said there was a misunderstanding between him and his workmen about who was to get the permit.

"The contractor said McDevitt told him he was in serious trouble for failing to get the permit.

" 'I asked if we could rectify this trouble,' Batchelor told me, 'What's is it worth to you?'

"'I took $10 from my pocket and handed it to McDevitt,' Batchelor said. He said McDevitt was sitting in his car across the street from the job at the time the money was passed.

"Batchelor said McDevitt handed him an approval slip and he took the slip to City Hall Annex and obtained a permit.

"Another witness told the Commission McDevitt harassed him after he refused to pay $50 to the inspector.

"Thomas W. Walsh, of 6226 Cardiff st., also a contractor, told the commission he met McDevitt on April 10, 1956, and asked the inspector about the type of permit that would be required.

"'McDevitt asked me what was in it for him,' Walsh said, 'I replied, $10, I guess, and he said 'that's not enough.'

"He said McDevitt asked for $50 but he refused and canceled his contract for the job.

"Walsh testified that during May, June and July of last year, McDevitt ordered his men to cease work on jobs that required no permit and he complained to various officials in the Department of Licenses and Inspections until September when he went directly to Pytko.

"He told the board Pytko inspected three jobs completed by his workmen that were condemned by McDevitt and found them in good order.

"In cross-examing Walsh, Louis F. McCabe, McDevitt's attorney asked why the contractor offered $10.

"Walsh said he considered that amount a tip because McDevitt took the time to meet him and go over the details of the work to be done.

"The hearing was adjourned after Walsh's testimony on the request of McCabe. No date was set for its resumption."

I find in the Gore case, in a letter from the district attorney's office, dated December 9, 1952, the following:

"Finally one John McDevitt, a construction superintendent who was employed to supervise the erection of a building, testified that the petitioner, referring to Gore, demanded $125.00 payment from him for the approval of a permit. When McDevitt brought the money to the petitioner, the latter refused to accept it but directed McDevitt to hand it to Winegardner."

Now my question here, Mr. Meehan, is, is the John McDevitt referred to in this news article the same John McDevitt referred to in the district attorney's letter?

A I believe it is.

Q And this perjury charge, as I understand it, was prosecuted by the Attorney General's office; not by the District Attorney's office?

ATTORNEY GENERAL McBRIDE: What's this?

CHAIRMAN TOMPKINS: The Gore perjury charges were prosecuted by the Attorney General's office and not by the District Attorney's office, according to the record.

ATTORNEY GENERAL McBRIDE: Sure.

CHAIRMAN TOMPKINS: I'm sorry I did not have this information when Mayor Dilworth was here. I would have liked to have asked some questions about it.

ATTORNEY GENERAL McBRIDE: Well, Mr. Dilworth wasn't in office when the Gore prosecution was prosecuted.

CHAIRMAN TOMPKINS: Mr. Dilworth made the statement, however, that he was the one who exposed Mr. Gore in the course of his political campaign.

ATTORNEY GENERAL McBRIDE: Yes, he said that he did it in 1947 and that Mr. Gore was prosecuted before he, Mr. Dilworth, came into office.

CHAIRMAN TOMPKINS: Well, I am asking whether or not the John McDevitt in the District Attorney's letter is the same John McDevitt referred to in that article.

ATTORNEY GENERAL McBRIDE: I have no knowledge of that.

THE WITNESS: I believe he took Mr. Gore's job.

CHAIRMAN TOMPKINS: That's all, Mr. Meehan.

THE WITNESS: That's what I've been told. Now I haven't even checked that. He was supposed to have taken the job that Gore had under the new administration.

MR. KOHN: What was that?

CHAIRMAN TOMPKINS: This is merely a hearing before the Civil Service Commission. There has been no prosecutions or anything else on it yet.

SENATOR YOSKO: That doesn't say there can't be prosecutions, and I don't see where it is material to this inquiry.

If there is anything that you want to ask Mr. Dilworth, all you have to do is get him back up here, and I'm sure he will be glad to come up.

CHAIRMAN TOMPKINS: Well, I referred to it only because of the fact that—

SENATOR YOSKO: Well if you want to refer to it, it is all right; but if you want to make an issue of it, if you want to carry it further, I think we should proceed.

ATTORNEY GENERAL McBRIDE: Suppose it is one and the same man?

CHAIRMAN TOMPKINS: Well, then I think there is a duty that it ought to be looked into.

ATTORNEY GENERAL McBRIDE: It is being looked into. I'd like to inquire whether it has anything to do with the Board of Pardons. If you think it would, go ahead. The case isn't even disposed of yet.

MR. KOHN: Thank you, Mr. Meehan.

CHAIRMAN TOMPKINS: Does anyone else have a question of Mr. Meehan?

(No response)

(Witness excused)

MR. KOHN: Mr. Hean, will you take the stand?

FRANK R. HEAN, Recalled

DIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Hean, I would like to recall the case of John Francis McShane, No. A-3145, June Session 1955. The application is for a pardon.

This defendant plead guilty to establishing a gambling place before the Honorable Ernest Harney in the County of Chester.

ATTORNEY GENERAL McBRIDE: Could you give us the date?

MR. KOHN: December 5, 1951.

BY MR. KOHN:

Q When was that application received, Mr. Hean?

A It was filed on the seventh day of June, 1955.

Q The seventh day of June in 1955, is that right?

A That's correct.

ATTORNEY GENERAL McBRIDE: Did you give us the sentence?

MR. KOHN: He didn't receive a sentence.

ATTORNEY GENERAL McBRIDE: Then he wasn't in jail.

MR. KOHN: No.

BY CHAIRMAN TOMPKINS:

Q This is an application for a pardon?

A Yes, the sentence was a fine of $500 plus costs.

BY MR. KOHN:

Q Now you say the application was received on June 7, 1956?

A Yes.

Q I refer you to a letter from James A. Finnegan, Secretary of the Commonwealth, dated June 7, 1955. Who is that addressed to?

A That is addressed to me.

Q And will you read the letter into the record, please.

A This letter was received on the seventh day of June 1955, from Mr. Finnegan.

Q Received by the Board of Pardons?

A Yes, to me as Secretary of the Board of Pardons.

Q That's the same day that the application was filed, is that correct?

A That is correct.

Q Will you please read the letter?

A "Believe this case to be most meritorious. You will note that this young man will be unable to obtain work as a trainer of horses in view of this conviction."

Q Now, Mr. Finnegan then wrote to you the same day you received the application and stated that he believed this was a meritorious case?

A That is correct.

Q What did he ask you to do?

A Nothing.

Q What did you do?

A I circulated the application. I think there is a note there on it, isn't there, in my handwriting?

Q On whose request did you circulate the application?

A Not the application; I mean the white copies were mailed.

Q What did you circulate, Mr. Hean?

A I sent white copies of this application to the district attorney, the judge and the probation office of Chester County.

Q Well, on June 7th, the same day you received the application and the same day you received the letter from Mr. Finnegan stating that this was a meritorious case, did you circulate the information to any of the Members of the Board of Pardons?

A It would so indicate that I did.

Q And what was the date of that letter?

A It was dated June 7, circulated either the same day or the next day, because our time stamp is June 8 for the four Members of the Board.

Q And will you read that, please, into the record?

A "The attached letters are self-explanatory with respect to the special listing of this application for hearing on Thursday, June 23rd, at the end of the day."

Q And do you know that "attached letters" referred to?

A No, I do not without looking at them.

Q Well, did you receive any letters from his attorney or anybody else?

A That I couldn't say without reference to the letters themselves. Evidently there must have been some, but what they were I could not tell you.

Q Did you read that part?

A You stopped me there before I finished it.

Q Well, finish it, please.

A Continuing this letter, "Rule V, Section (b) of the rule permits special listing upon approval of at least two Members of the Board.

"Kindly indicate your vote and return to the Board of Pardons."

Those favoring and those opposed are indicated.

Q Now who favored?

A The four Members of the Board. You want them read? Mr. Finnegan, Mr. Cohen, Miss Blatt, Mr. Furman.

MR. KOHN: Mr. Chairman, I think we'd better mark the entire folder or file of John Francis McShane as an exhibit.

CHAIRMAN TOMPKINS: All right.

Correspondence file in re John Francis McShane—produced, marked for identification and received in evidence as Committee Exhibit No. 40 AJP 4/29/57

BY MR. KOHN:

Q I show you letter dated May 31, 1955, stamped as received by the Board of Pardons, June 7, 1955 from Earl Chudoff, Attorney.

That was also received by the Board of Pardons then on June 7, was it not?

A That is correct.

Q So you received three items; one was the application; one the communication of this being a meritorious case from Mr. Finnegan; and this letter received June 7th?

A That's right.

Q And it all happened the same day?

A Yes sir.

Q Now will you please read that letter from Mr. Chudoff into the record?

A This is a letter dated May 31, 1955, directed to Mr. Finnegan, Secretary of the Commonwealth, with respect to the application of John Francis McShane, signed by Earl Chudoff. It is addressed:

"Dear Jim: In accordance with our telephone conversation, I am enclosing herewith original and eight (8) copies of appication for pardon on behalf of John Francis McShane, together with my check in the amount of $15.00 to cover filing fee.

"I would appreciate it a lot if you would file this for me with the Secretary of the Board of Pardons and have same specially listed for the June List, inasmuch as this young man must have this matter disposed of prior to the summer because he cannot secure a trainer's license from the New Jersey Racing Commission because of this conviction of 1951.

"Will you kindly advise me as to what date this matter will be listed for hearing?

"Thanking you for your cooperation and with kindest personal regards, I am,

"Very truly yours,

"/s/ Earl Chudoff,
Attorney at Law."

Q So he asked for special listing on June 7, and that is the day you received the letter from Finnegan saying this was a meritorious case?

A That's correct.

ATTORNEY GENERAL McBRIDE: This wasn't a letter, Mr. Kohn, to be accurate about it. I mean Mr. Finnegan's was a memorandum. This was a note.

MR. KOHN: Yes.

ATTORNEY GENERAL McBRIDE: It didn't come through the mail.

THE WITNESS. No, no, this didn't come through the mail.

BY MR. KOHN:

Q A communication from Mr. Finnegan's office to you, is that correct?

A That's right.

Q Now, on June 7, 1955, did you write to Mr. Chudoff, the same day you received the application and—

A I evidently did.

Q . . . the same day you received Mr. Finnegan's request and the same day he circulated the letter requesting special listing?

A On the same day, June 7, I wrote to Mr. Earl Chudoff, Attorney-at-law, Philadelphia: "In re: John Francis McShane.

"Dear Sir: Upon the request of the Secretary of the Commonwealth, we are circulating your request for the special hearing of this application. If the Board approves, the application will be heard on the second day, Thursday, June 23, 1955, at the end of the list. As promptly as I receive an approval I will inform you.

/S/ "Frank R. Hean, Secretary."

Q Then, on June 8th, did you send him another letter?

A I don't know, did I?

Q I'm afraid you did.

A I will read the letter. On June 8th, I wrote him, addressing it to Mr. Chudoff direct:

"Dear Sir: We refer you to our letter of the 7th, regarding the above named, and wish to advise you that the Board has approved your request and we are, therefore, today listing the application for special hearing at the end of the second day, Thursday, June 23, 1955.

"The case will be number 98-A on the calendar.

"Yours very truly."

Q Now what reasons were given for a special listing at that time?

A The memorandum dated June 7, 1955, which reads, 'the attached letters are self-explanatory with respect to the special listing of this application for hearing on Thursday, June 23rd, at the end of the day."

Q Was there any urgency about this case except the fact that Mr. Finnegan thought it was meritorious?

A Well, the man has a job, has been out of jail, and has been in no trouble since 1951. He had a job as a trainer with the Racing Commission of New Jersey, I understand.

Q Where did you get that understanding? There is nothing in the record on it?

A Well, there is nothing in the record, Mr. Kohn, no, but I do know some things such as—oh, a variety of things if you ask me about them.

BY SENATOR YOSKO:

Q Was that not stated in Chudoff's letter?

A Well, yes, but he asked me whether I knew it as a fact. That, of course, I do know.

ATTORNEY GENERAL McBRIDE: Everybody knows the rainy season is during the summer in New Jersey.

BY MR. KOHN:

Q Do you know what was discussed between them on the telephone?

A No, I don't know that.

Q You don't know what was discussed between Chudoff and Mr. Finnegan on the telephone?

A No, I do not.

Q You don't know what was discussed between Finnegan and Chudoff that prompted Finnegan to write the letter that this was a meritorious case?

A I don't know.

Q Chudoff, at this time, was a Member of Congress from Philadelphia, was he not?

A I can't answer that because I don't know.

Q Did you discuss this case since last week with anyone?

A No, I haven't, not personally.

Q You have had no discussion with Mr. Finnegan or the Attorney General?

A No sir. He called me to ask where the McShane file was and I said you had it, and that was the last of the discussion, if you call that a discussion.

Q You had no discussion of it?

A No. If I had, I'd tell you.

Q Now, did you write to the judge or the district attorney about this case?

A I sent the white application, if you are familiar with about what I speak, to three persons; the district attorney, the judge and the probation officer of Chester County.

Q Did you request an immediate reply to that?

A I can't recall that I did. It was a form letter which does ask for a reply promptly.

Q Are there any copies of that in the files?

A Do you mean of the letter?

Q Yes.

A No, not of the form letter.

Q You have a notation there on one of these letters that are being introduced into evidene to contact the D. A.

A That's my handwriting.

Q That was put on the letter on June 7th?

A June 7th or 8th whatever—I can't tell you the date I put that note on.

Q Well, on ordinary cases would you receive that prompt action?

A Well, I can answer it this way. It struck me that the urgency of this application for a pardon was so that the man could earn a livelihood. So that there was an urgency about it.

Q Was there anything in the file that said he was not training horses in Pennsylvania at this time?

A Well, he has a statement here under oath that he is a horse trainer: "I have learned to become a trainer of race horses, which I expect to follow as my occupation the rest of my life."

Q Well, doesn't anything in the record show that at that time he was already training horses?

A Well, he has here that "on the 5th of December I became associated with Jack Alexander who operates Ajax Stables."

Q Is there a letter in the file from Jack Alexander?

A You're just showing it to me now. I never saw it before.

Q You never saw it before?

A Well, I mean by that I never saw it before this moment.

Q You mean you never saw that letter before?

A No, I never saw it before.

Q It is in your file.

A Well, then it must have been there. I don't recall ever seeing it.

Q What's the date on that?

A That's May 14, 1955.

Q And whom is it addressed to?

A To whom it may concern.

Q And what did he say abou training horses at that time?

A "Mr. John F. McShane has had one of my fillies for the past year, and I have found him to be honest and trustworthy in all of his dealings with me."

Q So he was training horses at that time?

A That's right.

Q And you received a letter—

A Well now, listen, let me finish this letter: "I am certain that he would be reliable of any trusts placed upon him now or in the future, and I am most anxious to re-employ him as my trainer as soon as his license can be re-issued by the Racing Commission." That was signed by Jack Alexander.

Q And that's what made the matter urgent in your estimation; that all this was done after the 7th?

A You are asking my personal opinion? Yes, I do.

Q Did you receive a letter from S. Paul Ferraris, dated May 17, 1955?

A This is dated May 17, 1955, addressed "To Whom it May Concern:

"Mr. John F. McShane has been in my employ all winter training my horses on the farm, and I have always found him to be honest and trustworthy in all my dealings with him. I would appreciate any help given to him in his effort to receive his license from the Racing Commission, as I am most anxious to have him continue training my horses.

"I would not hesitate to recommend him to any trustworthy job."

/S/ S. Paul Ferraris."

Q All right. Now will you give us the date of his conviction?

A According to the record here, it was on the 5th day of December, 1951, in the Quarter Sessions Court of Chester County.

Q And the date of this application?

A The date of this application is June 7, 1955.

Q Nineteen fifty-five.

A Yes.

Q So that it was about a little less than four years between the time of his conviction and the time of the application?

A Just about, that is correct.

BY SENATOR YOSKO:

Q What was he convicted of?

A Establishing a gambling place.

BY MR. KOHN:

Q Tell us whether or not the district attorney's office opposed this application.

A On that again I would refer to a letter.

I have a letter dated June 13, 1955, from the district attorney's office in Chester County. Do you want me to read it? Do you want me to read the entire letter?

Q Yes.

A It is addressed to the Secretary of the Board of Pardons:

"Dear Mr. Hean:

"I have your letter enclosing the application for pardon of John Francis McShane.

"I have checked with the Chief of Police of West Chester about this matter and he informs me that for a period of four months prior to his arrest on March 10, 1951, he had complaints that McShane was operating a bookmaking establishment. At the time of the raid they confiscated boards which were used in the operation of the bookmaking establishment which were set up on the wall in one of the rooms. According to the Chief of Police, the establishment had all the earmarks of a bookmaking place.

"James Paglia who was arrested as one of the operators, was employed by McShane to run the business for him.

"This office opposes the application.

/S/ "Joseph B. McKeone,
District Attorney."

Q Well, did you receive a letter from the judge in the case?

A I evidently did. It was addressed to the Board of Pardons and dated June 9th:

"Re: Application of John Francis McShane.

"Gentlemen: In reply to your communication of June 8, 1955, I have no comment to make that would be of any assistance to the Board in its determination of the application.

/S/ "Ernest Harvey."

Mr. Harvey was a judge of the Chester County Court.

Q And did you receive a parole office investigation report on June 16, 1955?

A It would so appear, Mr. Kohn.

Q And that was exactly nine days after the application was filed?

A That is correct.

Q I refer you to paragraph 17 of the applicant's application and I ask you to read that into the record, please.

A Section 17. The question is: "Why do you believe your application should be granted?"

The applicant made this reply: "Since December 5, 1951, I have had no difficulty whatsoever. I have become associated with Jack N. Alexander, who operates the Ajax Stables, Hotel Majestic, Broad Street and Girard Avenue, Philadelphia, and S. Paul Ferraris, who operates the Liz-Tree Stable, Paoli Inn, Paoli, Pa. I have learned to become a trainer of race horses, which I expect to follow as my occupation for the rest of my life. I have five children and because of my conviction of establishing a gambling place in Chester County, Pennsylvania, on December 5, 1951, the State of New Jersey refuses to give me a trainer's license and it is therefore impossible for me to follow my occupation, and in turn support my children. I have learned my lesson and will never again be involved in an illegal enterprise as long as I live."

Q Will you read item 21 of the Parole Board report into the record on the question of whether or not he was supporting or living with his children as he alleged in the application?

ATTORNEY GENERAL McBRIDE: Did you say he was living with them?

MR. KOHN: Well, he —

ATTORNEY GENERAL McBRIDE: It doesn't indicate that this man said that he was living with them.

MR. KOHN: Well, supporting them. I won't quibble.

THE WITNESS: The confidential report which Mr. Kohn handed me, Item 21; the agent says Item 21 is incorrect.

The children are as follows: Eleanore Ann McShane, sixteen years of age; Michael McShane, fifteen years of age; John McShane, thirteen years of age; and are not dependent upon the applicant, according to the applicant's first wife and the mother of these children, Mrs. Margaret Collins McShane, age 43, residing at 103 North Darlington Street, West Chester, Pa., who denies this statement.

Mrs. McShane advised the agent on June 15, 1955 in a personal interview that applicant has not supported these children for more than nine years. She said she could use some help in their support at this time, as the children are now attending St. Agnes Catholic High School and the cost of maintaining them properly has become a great problem. Mrs. Margaret McShane related that applicant's whereabouts are unknown to her and she wishes to cause him no further trouble, but would accept support from him if he was able to provide some support for the children. Applican't wife has maintained and supported the children and the home since she separated from and divorced applicant in 1946, by working as an office clerk with the Nachman Corporation, 206 E. Market Street, West Chester, Pennsylvania.

Q Now have you been aware of this applicant's previous record, from the application?

A According to the applicant's statement, in February 1951, charge of disorderly conduct, found guilty by the burgess and fined $25 and costs; October of 1951, West Chester, disorderly conduct, found guilty by the burgess and fined $10 and costs; December 5, 1951, which is the present case, West Chester, establishing a gambling place, plead guilty, fined $500 and costs.

Q Now I ask you in addition to that, what the Parole Board said in regard to a record of his on September 22, 1950, which he does not include in his application. Will you read that?

A It says the applicant has a previous record. "Item 16, which I just read, is incomplete; add the following: 9-22-50, West Goshen Township, Chester County, Pennsylvania, applicant and Ann McCuster being found and observed in a parked auto in private driveway, both being found in an indecent condition (nude). They were charged with Disorderly Conduct before the Justice of the Peace, W. C. Arnold and each fined $15 and costs."

Q Now, what does the Parole Board say about this man's reputation, the applicant's?

A "Reputation of the applicant, poor, as applicant was known as a professional gambler. His associates were well-known police characters, as indicated in personal interviews with the police and several authorities of Chester County, Pennsylvania."

Q And when Mr. Finnegan said this was meritorious application, he didn't yet have the Parole Board report did he?

A Oh, he could not have, no sir.

Q Now I refer you further to the confidential Parole Board report under their statement in Item 15-a. Will you read that into the record; I mean where they refer to 15-a in the application?

A The applicant states briefly the details of the crime. Now the Parole Board makes this report: "Item 15-a is incorrect as to the applicant's statement that a dice game was in progress on a pool table in his establishment on March 10, 1951 when raided by the police. This dice game was in progress in an extravagantly furnished gambling room. The game was being played on a regular gambler's crap table. Applicant also neglects to mention that the house look-out man was surprised by the police before he could warn the players in this game that the place was being raided. The applicant also fails to mention that when questioned by the police he admitted that he was the owner of the establishment and that the two accomplices operating this game were employed by him. There was no information available that the applicant was in Atlantic City, New Jersey when this establishment was raided or that the district attorney had informed applicant that he had a warrant for the applicant's arrest." End of the statement.

Q Will you look at the parole report and see whether at any time the parole agent was able to locate either his employers and interview them or the applicant? Look at the first page.

A Well, yes. I was looking at what we have. The agent was unable to locate the home, as he apparently resides in Rumson, New Jersey. As to employment, none submitted. The agent was unable to locate applicant's business associates.

Q So he wasn't able to locate either the applicant to interview or the associates who wrote the letter there.

There was no contact made with the Ajax Stables or any other man there, was there?

A Evidently not.

Q Now did you write this recommendation for the Board of Pardons?

A No doubt I did.

Q Would you look at it?

A Yes sir.

Q And in there did you make the statement recommending this pardon?

A I wrote it.

Q And was it approved by Herbert B. Cohen, Genevieve Blatt and James A. Finnegan?

A It was.

Q And in that does it state that the Board believes that the applicant who has made a series of attempts to rehabilitate himself in every way to lead a law-abiding life with honest employment is entitled to every consideration?

A If that was so stated, it was included.

Q Is that in there?

A Let me look.

The employer of the applicant states that he has found the applicant to be honest and trustworthy; that he is most anxious to re-employ the man.

ATTORNEY GENERAL McBRIDE: Wouldn't you want the whole thing read?

BY MR. KOHN:

Q Yes, read the whole recommendation, if you will.

A "This applicant is 41 years of age. He had practically no prior criminal record, having been arrested for disorderly conduct and gambling, and fined. His present offense consists of operating and maintaining a gambling place, for which offense he was fined $500 and costs.

"This offense occurred in December of 1951. Since that time he has become associated with the Ajax Stables as a trainer of horses. He is now in New Jersey as a trainer. The New Jersey law requires that employes or persons connected with racing in that State be free from any criminal record.

"The trial judge, the Honorable Ernest Harney, stated to the Board that he had no comment to make that would be of any assistance to the Board in the determination of the application. The district attorney's office opposed the granting of a pardon. The Pennsylvania Board of Parole reviewed the case for the Board and discloses that since 1951 the applicant has conducted himself properly and has not been involved in any offenses. The Board believes that this applicant who has made a serious attempt to rehabiltate himself in every way, will live a law-abiding life, with honest employment, is entitled to every consideration.

"The employer of the applicant, Jack N. Alexander, states that he has found the applicant to be honest and trustworthy and that he is most anxious to re-employ the applicant as a trainer as soon as his license can be reissued by the Racing Commission of New Jersey.

"In view of all the above facts, the Board recommends that a pardon be granted to the applicant."

Q Mr. Furman dissented?

A Yes.

Q Upon what did you base the fact that presently he had a good reputation when the Parole Board said he didn't have and every indication was that his statements in his application were, according to the Parole Board, incorrect.

A The agent, Mr. Wynkoop, was talking about this man when he was in West Chester. Mr. Wynkoop is the agent.

Q Is this something that's in the record or is this something he told you?

A No, right in here. I am reading this in his interviews with the police and civil authorities of West Chester County, which undoubtedly is the reputation he maintained up until 1951 when he was arrested.

Q Well, what was his reputation after that?

A I don't know other than that he has behaved himself, and we have letters from two trustworthy gentlemen.

Q Who were in the same racing business?

A Mr. Ferraris and Mr. Alexander both say that he is most trustworthy and that he is honest and that he has been in their employ and has done a good job for them.

Q Would you expect an employer to say anything else?

A Some do, yes sir.

Q Did you or Mr. Finnegan or any member of the Board send a parole agent down there to interview him?

A I know I didn't.

Q Didn't the parole report show that they couldn't get to see either one of these men?

A That's inferred there, but probably they didn't try very hard.

Q Well, suppose they didn't try very hard; why didn't you or the Board try very hard before?

A Well now, really, Dave, we haven't any facilities to go around into New Jersey and run down something like that.

Q How do you know he is trustworthy?

A Well, I judge a man is trustworthy when two persons of reputation so state, and I am acquainted with the name of Alexander. I don't know him personally.

Q Who is he?

A He runs the Ajax Stables.

Q What does he do beside running the Ajax Stables?

A Well, that's his business. He is a trainer of horses and runs them on the tracks around the country.

Q He does?

A Yes.

Q Then you are familiar with him?

A I know who he is; I know of him.

Q What does he do beside that?

A I don't know what he does besides that.

Q Where are his stables located?

A His stable is located in Jersey and he has some horses in training up near Paoli.

Q He could have been in the racing racket?

A He is in the racing business That's his business, racing horses.

Q I say he could have been with this fellow at the time the applicant got in trouble.

A Your guess is as good as mine.

Q I think it is too.

A Well, you may have it; I don't know.

Q And neither you nor the Board checked on that, did you?

A We have no facilities for that.

Q And when did you receive those letters to the Board of Pardons?

A You mean from Mr. Alexander?

Q Yes.

A They were dated May 14th, but I have no stamp on as to when they came into my personal possession.

Q You took those for granted? They were addressed to whom it may concern, and you took it for granted they were reliable people?

A I do. I know Alexander is reliable.

Q Well, why weren't they stamped when they came into my possession?

A I can't answer that because they may have been a part of this general letter here that you see, and that had a stamp on it.

Q That had a stamp on it. Now when you were talking about that, you were attempting to imply that those two letters were in the file at the time that Mr. Finnegan wrote his letter about this being a meritorious case. Isn't that what you are trying to imply?

A Now, let me get the question straight, Dave. You mean that these two letters were in my file—

Q I am asking you whether they were.

SENATOR YOSKO: Mr. Kohn, you have carried this just about as far as I can stand it. Now—

MR. KOHN: As far as what?

SENATOR YOSKO: Now, just a minute.

MR. KOHN: I didn't hear you.

SENATOR YOSKO: Let's get the record straight. When Mr. Finnegan, as I understand it, said that this was a meritorious case, he was talking then—

MR. KOHN: Mr. Finnegan is here.

SENATOR YOSKO: If he is here, call him.

MR. KOHN: I am going to call him.

SENATOR YOSKO: When he said it was a meritorious case, he was referring to the approval of the application for the hearing. Isn't that correct?

MR. KOHN: Are you saying that? I don't know. You are making the statement. I don't know whether it is true or not.

SENATOR YOSKO: Well, he got a letter from Mr. Chudoff asking that the application be filed; and following the receipt of the application he wrote the memorandum, didn't he?

MR. KOHN: I don't know.

ATTORNEY GENERAL McBRIDE: Saying that it was a meritorious case and it ought to be listed. Don't say you don't know, because you do.

MR. KOHN: You talk to Mr. Finnegan, I don't know what he said.

SENATOR YOSKO: Well, we will talk to Mr. Finnegan.

MR. KOHN: I don't know what he said.

SENATOR YOSKO: In so far as the word "meritorious" is concerned, it applies to the application for a special hearing.

MR. KOHN: I don't know that.

SENATOR YOSKO: You know that by the sequence of events there.

MR. KOHN: Well, I am not arguing there.

SENATOR YOSKO: You can ask any question that you want but you seem to delve on the word "meritorious;" and as far as meritorious is concerned, he was referring to the application for the special hearing.

MR. KOHN: Or to his conversation with Chudoff, which?

SENATOR YOSKO: Either or both.

MR. KOHN: All right.

SENATOR YOSKO: You are talking about a telephone conversation. It says, confirming our telephone conversation, in the letter. And then the letter comes; and after the letter comes, he sends it over to the Secretary of the Board. He sends the application and the letter to the Secretary of the Board, and he says he believed it was a meritorious case and that the case should be listed for special hearing.

MR. KOHN: Well now, the only question in my mind is what he based his opinion on as to what was a meritorious application.

SENATOR YOSKO: As far as hearing it is concerned, if you want to confine it to that, that is fine.

CHAIRMAN TOMPKINS: There is nothing in here to indicate any of that stuff.

SENATOR YOSKO: Yes, there is.

CHAIRMAN TOMPKINS: The record will speak for itself.

SENATOR YOSKO: The series of events indictate that.

CHAIRMAN TOMPKINS: All right, then let the record speak for itself.

SENATOR YOSKO: Well, if you are going to let the record speak for itself, then why all the questioning? If he can answer, I can answer.

CHAIRMAN TOMUKINS: This whole thing—

MR. KOHN: If you would like to testify, I would like to question you.

REPRESENTATIVE LOPRESTI: I want to state this, that I think both Mr. Kohn and Mr. Yosko are presenting conclusions that might be drawn from the evidence. Now we have a man here who can testify and state what he intended so why should we argue about it?

CHAIRMAN TOMPKINS: He is right. I agree with him one hundred percent.

ATTORNEY GENERAL McBRIDE: The point is, why ask Mr. Hean? I think that is the whole question.

REPRESENTATIVE LOPRESTI: That is right. We should refrain from placing any interpretation on it until we find out from the man who made it.

BY MR. KOHN:

Q Mr. Hean, do you know when these letters were put into evidence?

A I cannot give you the time because they are not time stamped.

Q But after the Board heard this case, did they act on it promptly?

A Rather promptly, yes.

Q Back in the same session?

A Yes, at the executive session that followed the hearing.

Q In spite of the fact that the Parole Board refuted everything that was in the application, they acted on it and acted favorably, is that right?

A Well, I am not going to the extent that the Parole Board—

Q Did they recommend it?

A The Parole Board? We are not following the recommendation of the Parole Board, or of the judge or

the district attorney. I think I am clear in saying that it is an independent constitutional board, and further, that every time we ever commute a sentence we are doing it in derogation of the court. You can abolish pardon and parole, and then the court sentences stand, but civilization has indicated ever since its dawn that there are cases where men should be sentenced, commuted and pardoned. We have followed the arm of sovereignty of which we are a part.

Q And so the fact remains that the Parole Board could give you no information that you wanted?

A Not to a large extent.

Q To what extent did you give favorable consideration?

A I felt that this was on account of the brief time that Mr. Wynkoop had to search. He did a splendid job with the time element involved, and he gave us the record up to 1951.

Q That was a special job you gave him on request, wasn't it?

A That would be, yes, naturally.

Q Did Governor Furman dissent in that—

A It so indicated.

Q . . . commutation?

A It so indicated.

Q Did he follow the Parole Board's recommendation?

A Well, I do not know.

Q Well, will you read it into the record?

CHAIRMAN TOMPKINS: I wonder whether or not Governor Furman filed a written dissent and if so, what was his dissent?

THE WITNESS: He did. I have a photostatic copy of it here.

CHAIRMAN TOMPKINS: Let us have it in the record.

THE WITNESS: Dissent, dated July 21, 1955.

BY MR. KOHN:

Q When was that case heard, Mr. Hean?

A It was heard around about the 23rd of June, 1955.

Q What was the date of the dissent?

A July 21, about a month later.

"I opposed this application for pardon at this time as being premature. The applicant was convicted on December 5, 1951, less than four years ago. The trial judge did not express a favorable opinion and the district attorney opposed his pardon. The investigation by the Board of Parole for the Board of Pardons reveals many incorrect statements in this application. For instance, this statement concerning the support of his children, which his wife denies. The applicant's wife divorced him in 1946 and has maintained and supported the children since then without any help from him. Almost every statement in his application is incorrect according to this report. Therefore. I strongly oppose this pardon at this time.

/s/ "Roy E. Furman."

Q The Governor did approve it, did he not?

A I believe so.

Q On the 27th day of July 1955; is that correct?

A That is correct, Dave.

CHAIRMAN TOMPKINS: What was that date?

THE WITNESS: Twenty-seventh day of July, 1955.

BY SENATOR YOSKO:

Q Mr. Hean, the offense which Mr. McShane committed—is it also punishable by a jail sentence in addition to a fine?

A I believe it is, yes sir.

Q Did the judge give Mr. McShane a jail sentence?

A No sir, he gave him a fine.

Q Just gave him a fine?

A Five hundred dollars and costs.

Q When was this case first called to your attention as far as the file is concerned?

A June 7th of 1955.

Q And was that through the memorandum that was sent to you by Mr. Finnegan?

A That is correct.

Q And what is the date of Mr. Chudoff's letter?

A Mr. Chudoff's letter was dated May 31, 1955, directed to Mr. Finnegan.

Q And what is the date of Mr. Finnegan's memorandum?

A To me? It was dated June 7, 1955.

Q And when Mr. Finnegan sent that memorandum to you, was it in reference to the application for the special hearing?

A Oh no, it was for the special listing only.

Q For a special listing?

A That is right. It had nothing to do with the merits.

Q And when he said that the case was a meritorious one, was he referring to the merits of the case or to the application?

A He was referring to the merits of placing this on a special listing for the June Session.

(Discussion off the record.)

CHAIRMAN TOMPKINS: I think that Mr. Finnegan, being present, should explain why he believed this case to be most meritorious. To ask this witness to tell us what Mr. Finnegan meant I think is out of order.

BY SENATOR YOSKO:

Q And Mr. McShane, in the application and the letter from Mr. Chudoff, said that he had a chance to get a job.

A That is correct.

Q And is there a certification in the file stating that he could get a job?

A We have two letters which I read into the testimony from Mr. Alexander and Mr. Ferraris. Alexander, of the Ajax Stables, particularly wanted him as a trainer, wanted him to get the license so he could continue to work with the Ajax Stables.

BY MR. KOHN:

Q Who filed the application, Mr. Hean?

A I just didn't hear you.

Q Who filed the application with the Board of Pardons?

A Well, it was sent down from Mr. Finnegan's office. Earl Chudoff, I believe—

Q That is right. The letter is here.

A . . . . was the attorney for the applicant.

Q In other words, Chudoff sent the letter and the application to Mr. Finnegan and then Mr. Finnegan sent down the application together with the letter?

A That is correct, and the $15 filing fee.

Q Now do you know if Ferraris or Alexander, either one of them or both, had been convicted of a gambling violation?

A That I would not know.

Q You made no check on that?

A No sir.

BY ATTORNEY GENERAL McBRIDE:

Q Could they have a training license in New Jersey if they had been convicted?

A I understand that no person can operate in New Jersey—

Q Apparently he is.

A . . . who has a criminal record, in the racing field. That is my understanding of the law, from a conversation.

Q Do you know of any association in America tighter than the Thorobred Racing Association, on people who own and operate and run horses at their tracks?

A My familiarity with racing is a little two dollar bet at the mutual window, and that is about the limit of it.

MR. KOHN: You are not qualified?

THE WITNESS: I am not qualified.

BY ATTORNEY GENERAL McBRIDE:

Q Now is there anything in the record to show that this man had been in trouble in this space of three and one-half to four years?

A Nothing in the record, absolutely. And nothing in the confidential report of the parole agent would indicate that the man had done anything illegal in that period of time, in the last three and one-half or four years.

Q From your experience is it unusual where a man has appeared in a court of record for the first time in his life, is fined and no prison sentence imposed, and then is not arrested for three and one-half or four years, to be pardoned? Is there anything unusual about that?

A There is nothing unusual about it.

Q Particularly where he does say he needs the pardon in order to earn a living?

A That is correct.

Q Now is there anything in that record which says that he says he did support his children?

A His application states this: ". . . impossible for me to follow my occupation, and in turn, support my children . . ."

Q And he indicates he wants to support them in the future. Now did anybody appear before the Board of Pardons and say that he did or did not support his children?

A I do not have the minutes of my meeting here. I mean my book, you know. I have no recollection of that, General.

Q The only thing in the record so far, that is, in this pink record that you are talking about, is the statement made by his divorced wife saying that he didn't support his children?

A That is correct.

MR. KOHN: But that she would like to have him do so.

ATTORNEY GENERAL McBRIDE: Yes, but she did not appear before the Board of Pardons. It is his word against hers. You say that it is a false statement?

MR. KOHN: I am saying what the parole man said.

ATTORNEY GENERAL McBRIDE: Well, how can the parole man or anybody else say, because one person says something and does not face the other one, that it is a false statement?

MR. KOHN: If you don't want to believe the Parole Board, I don't care.

ATTORNEY GENERAL McBRIDE: You criticized the Parole Board.

CHAIRMAN TOMKINS: That is the same thing that happens in all other cases, too, General.

MR. KOHN: If you don't want to believe the parole agent, all right.

CHAIRMAN TOMPKINS: If you want to make exception of the parole agent—

ATTORNEY GENERAL McBRIDE: No, I do not, not at all. But to be fair about it, there is only a statement allegedly made by his divorced wife. You do not know the relationship between them at that time. She says he had not supported his children. The only thing he says is that he wants a pardon so he can work to support his children.

REPRESENTATIVE LOPRESTI: There is no conflict.

ATTORNEY GENERAL McBRIDE: There is no conflict at all. Maybe he would not support his children; I do not know whether he got his license or not. It is not a false statement under any view of the case.

SENATOR YOSKO: I see no difference in this from the Gore case. The district attorney and the judge opposed his pardon.

ATTORNEY GENERAL McBRIDE: I was wondering why this was brought up so high.

SENATOR YOSKO: Aus Meehan was up here, and he says that he had a right, as an American citizen, to intercede on behalf of an applicant if it indicated merit. And Mr. Chudoff did no more than that.

CHAIRMAN TOMPKINS: Mr. Chudoff is representing the applicant, and he is still an American citizen.

ATTORNEY GENERAL McBRIDE And did use any Congressional stationery or anything else. He was writing a letter as this man's counsel.

THE WITNESS: My notes taken at the hearing would indicate that no one was there to oppose. I have notes here with comments of the judge and the district attorney, on what you have heard here.

BY MR. KOHN:

Q He paid a $500 fee to Chudoff, didn't he?

A Mr. Chudoff got $500, yes sir.

BY REPRESENTATIVE BELL:

Q Is that a customary fee in cases like this?

A Well, that is sort of difficult to answer. The fees have gone up tremendously in the last few years like the price of bread and the general rise of living in the last few years under the present Administration. Five hundred is a pretty good fee, but they have gone up. I have heard them as high as three thousand dollars.

BY CHAIRMAN TOMPKINS:

Q Mr. Hean, where in the record is there information to the effect that this man had prospects of a job in New Jersey, and that the New Jersey law requires him to be free of any of these offenses in order to be able to get a job?

A Answering the question in reverse, there is nothing in the record to show a citation of the New Jersey Racing Commission law, but general knowledge, which many of us hold is that such a law exists.

Q Was that pointed out to the Board at the time of the hearing?

A My recollection would not go back that far. But knowing that the Board is made up of intelligent persons who are well acquainted with the general practices, I would say that they would know about it.

BY SENATOR YOSKO:

Q Isn't it so stated in one of the letters and in the application somewhere?

A Yes.

CHAIRMAN TOMPKINS: Well, he has a job to train horses, but it doesn't say in the State of New Jersey.

SENATOR YOSKO: Sure it does.

THE WITNESS: Yes, he lives in Rumson, New Jersey. Mr. Alexander who runs the big Ajax Stables says he wants him as a trainer and cannot employe him until his license is issued by the Racing Commission.

BY CHAIRMAN TOMPKINS:

Q Where did you say the Ajax Stables were?

A The Ajax Stables?

Q Yes, where are they?

A Well, the Ajax Stables have, I understand one in New Jersey and one in Pennsylvana, around Paoli.

BY MR. KOHN:

Q The Ajax Stables, according to a letter there, are in Philadelphia.

A No, that is the office, at the Hotel Majestic. He does not train horses in the Majestic Hotel.

MR. KOHN: No further questions.

CHAIRMAN TOMPKINS: Have you any further question?

SENATOR YOSKO: I have none.

BY REPRESENTATIVE BELL:

Q Mr. Hean, the conflict referred to this morning, for example, a conflict as to the record, the Parole Board did not point out that anything he had said in his application was incorrect. They merely added something in there which was not already in. They did not contradict anything that he put in himself.

A Well, I cannot just go along with you on that. They did say it was incorrect with respect to the description of the crime for which he was arrested and fined $500.

Q Well, he plead guilty to the crime. He plead guilty of that?

A Yes, and the other allegation of the report is they went off on the idea that his children, Eleanor, Michael and Joan, young girls and a young man, were in need of support, when at no time in his application did he say that he was supporting them. He said that he wanted employment so that he could support them.

Q Yes, now didn't the wife also tell the Board that she would not stand in the way of anything that could possibly get her that help and support? Isn't that part of the report, too?

A She wishes to cause him no further trouble, but will accept support from him if he was able to provide some support for the children.

Q Yes, and doesn't that indicate that she wanted him to have a job so that he could help to support them?

A That is a fair inference, and if she did not she could have gone in and got a support order for the children.

CHAIRMAN TOMPKINS. Well, that is all supposition. We do not know whether he supported them or not.

THE WITNESS: No, it is not in the record. She never has asked for a support order and got one.

CHAIRMAN TOMPKINS: She said she never received support during those years.

THE WITNESS: That is what she said.

CHAIRMAN TOMPKINS: Now whether he has supported them since that time or not is supposition.

(Discussion off the record.)

BY REPRESENTATIVE BELL:

Q But so far as actual conflict is concerned, is there anything in his application which the Parole Board said was wrong?

A There was an interpretation of the word "support" in which they say he has not supported them and he at no time said he did, but he said he wanted a job so that he could.

REPRESENTATIVE BELL: That is all.

CHAIRMAN TOMPKINS: That is all, Mr. Hean.

BY ATTORNEY GENERAL McBRIDE:

Q As to the point as to whether or not a man is eligible for license, will you read page 419 of the statement made by Mr. Chudoff, his counsel, in the public hearing, from line 8 to line 13.

A Lines 8 to 13 on the transcript of the hearings: "Last year the New York State Racing Commission set up a resolution which provided that anyone convicted of a crime other than by summary conviction shall not be entitled to a license as a trainer or in any other honor or in any way connected with any of the tracks operated by the New Jersey State Racing Commission."

So, Mr. McShane then found himself out of business.

Q Now without reading it all, does he say at page 420, that he cannot work in the summertime when the New Jersey track operates?

A He so states.

ATTORNEY GENERAL McBRIDE: I have no further questions.

BY MR. KOHN:

Q Did Mr. Chudoff also say right now he is in Philadelphia working for the Ajax Stables, not as a trainer?

A That is right.

Q So he was working?

A Yes. He is an attendant or something, but he wants a license to train.

Q He was working, was he not?

A Yes.

MR. KOHN: That is all.

CHAIRMAN TOMPKINS: That is all, Mr. Hean.

(Witness excused.)

JAMES A. FINNEGAN, Recalled

DIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Finnegan, you have been sworn?
A Yes, I have.
Q You are familiar with this case, now, I believe.
A Just what I have heard about it this morning in the short time I have been here.

BY ATTORNEY GENERAL McBRIDE:

Q Were you here for the whole thing?
A No, I was not.

BY MR. KOHN:

The testimony, I think, reveals that Mr. Chudoff called you on the phone and sent you a letter which was in the files together with the application and a check for $15.

A Apparently he did from this letter he has written on his legal stationery.

Q Yes, you received that and then sent it to the Board of Pardons which received it on June 7, 1955, is that correct?

A That is right.

Q You sent it with the application which was evidently with the letter which says eight copies of the application for pardon and a $15 filing fee, is that correct?

A That is right.

Q Now about the same time, I think the testimony shows, if I might point this out to you, on June 7, 1955 you wrote the note to Mr. Hean?

A That is right.

Q It has been entered in Exhibit No. 40, and a special listing was granted by a circulatory letter on the same day, is that correct?

A That is correct.

Q Now the question I would like to ask you is, how you arrived at the conclusion that you believed this case to be a most meritorious one?

A Well, I think that any time a man is denied an opportunity to earn a livelihood because of some impediment placed in his way, I think it is a meritorious case. This case, from the application, indicated that he had never served any time in jail, that the judges of Chester County assumed that the offense was not serious enough to jail him and that he was interested in providing support for his wife and children if he had the opportunity, and that he needed the pardon to work for the New Jersey race tracks. This indicated to me that there was considerable merit in the case.

Q And that was before the case was heard?

A That is true. It was based on the information contained in the application.

Q Of course, that is all the information you had at that time outside of what Mr. Chudoff might have given you?

A Well, Mr. Chudoff apparently said to me on the phone that this man was in the business of training race horses, and that, of course, if the case was not heard in June, since we do not sit in July and August, the possibilities for the opportunity of him—

Q Are you relating Mr. Chudoff's conversation to me now?

A To the best of my recollection. Then he would be denied the opportunity of earning a livelihood in New Jersey.

Q Do you feel in your consideration that is important enough to give the matter a special listing and disregard the statements of your own Parole Board Investigator that he had not supported his family, had not contributed when he was working?

A Well, I think we will have to take this chronologically, Mr. Kohn. Number one, this was the application that was submitted to me.

Q At that time do you know whether Mr. Chudoff said he was working or not working?

A That he was working as a trainer.

Q You say Mr. Chudoff said he was working?

A To the best of my recollection.

Q In Philadelphia, is that not right?

A No, no, that he was training in Rumson, New Jersey, I believe.

Q Didn't Mr. Alexander of Ajax Stables say that McShane was working during that past year and already training horses?

A Yes, but you do not train horses in Philadelphia. There is no place to train them.

Q I wouldn't know that.

A I think you cannot train horses on streets, I mean, you must have a track. To the best of my knowledge, there are no tracks in Philadelphia.

Q He was training them in New Jersey at that time?

A This letter here is the office of the Ajax Stables, which is located at Hotel Majestic, Broad and Girard Avenue.

Q Is it Ajax or Aljax?

A Ajax.

Q Are you familiar with Mr. Jack Alexander? Do you know him?

A No, I do not.

Q Do you know the other man, Ferraris?

A Ferraris? That is a new name to me. Who is Mr. Ferraris?

Q Of the Paoli Inn?

A No, I do not.

Q You do not know whether either one of them has any criminal record?

Q Well, I would say that they definitely do not have criminal records because if they are racing horses at tracks which are under the protection of the Thoroughbred Racing Association, then they are people of considerable substance and people of good reputation.

Q That is what you based your decision on rather than the statements of the Parole Board in regard to this man's previous reputation?

A I think we based them on a whole lot. Now are you referring to the reason for my memo to Mr. Hean or are you referring to the decision that was reached?

Q Well, you did not get those letters from the Ajax Stables and from Mr. Ferraris until the day of the hearing?

A That is right.

Q Is that not correct?

A Yes.

Q So I mean anything you said about the case being meritorious would have been based on Mr. Chudoff's comments to you, plus the statements in the application?

A Plus what it said in the application, that he had never served any time in jail, that the judges of the

particular courts where he was guilty of disorderly conduct and establishing a gambling place, did not think it sufficiently important to send this man to jail.

Q In spite of the fact that your own Parole Board said that he had not given you his complete criminal record and he had not supported his children—

A Well, I do not know just exactly what they did say. Where is this? Just a moment. Well, I will get it. I know where it is. Well, they said the reputation of the applicant when he lived in Chester County and now he was then living, I believe, in Rumson, New Jersey

Q Do you know his reputation there?

A No, I do not.

Q Well, you took for granted his reputation had changed?

A Well, I took for granted that his reputation had changed because Mr. Alexander, who I assume must be a person of some substance and of good reputation, wrote that he found him to be honest and trustworthy in all his dealings with him.

Q And in spite of the fact that the Parole Board said that he had not supported his family, you still thought he had a good reputation?

ATTORNEY GENERAL McBRIDE: The Parole Board did not state that at all.

MR. KOHN: His wilfe did.

THE WITNESS: Well, his wife said that.

BY MR. KOHN:

Q Do you believe that he had not supported his family, according to the Parole Agent?

A Well, you could belive it or you could not believe it. I mean very often—

Q Did you see any reason to disblieve it?

A . . . will you let me answer the question as you ask it?

Q Sure.

A Usually when there is a divorce, I mean usually there is some hard feeling between the two people who are contesting. Very often testimony is submitted by the wife or the husband as the case may be against the other party which is not entirely true. However, I would not take that as being absolute in this case because his application said he would like to support his family.

Q Now let us get back to my original question. That is that the Parole Agent said that he had not disclosed his complete record here because he had another offense in which he was convicted of being nude with a girl in a car. Did that have any significance to you?

A Yes, it did.

Q Now do you think that this Pardon Board should foist on this Racing Commission a man unless you know absolutely that his reputation is good?

A The man has lived, to the best of my knowledge and according to the information that we had at our command at that time, the man had lived and exemplary life for the past four years.

Q So all the information you had on that were the two people who were willing to employ him?

A That is right.

Q They might have known nothing about his habits in the community or where he lived during that time?

A That is true.

MR. KOHN. That is all.

BY SENATOR YOSKO:

Q Mr. Finnegan, you wanted to say something a little while ago about the use of the word meritorious. At the time you used it, referring to the case as being "meritorious" insofar as listing the case was concerned or were you referring to the actual hearing or the action of the Pardons Board to grant a pardon?

A Well, actually I said it was meritorious. I was assuming that it was meritorious as far as the listing itself was concerned because had we not heard it in June, it would have been impossible to list it for a hearing until September. By that time the racing season in New Jersey would have been completed.

Q And then after you got all of the facts in the case, you followed through on the meritorious part of it, and on the basis of it, you granted the pardon?

A That is right. We sit up there and we listen to cases that really have considerably more to them than this one as far as pardons are concerned. Frequently we will grant pardons if the other facts in the case warrant their being granted.

Here was a man, as I have said before, who never served any time in any prison. The judges who tried the case thought they were—well, it was innocuous enough not to give him a prison term and consequently, a man asking a pardon to make a livelihood, who has never seen the inside of a prison cell, I thought that the case had considerable merit, perticularly when he said he was interested in securing this license from New Jersey so that he would be in a position to support his children.

Q And you would distinguish this type of employment that requires a license from ordinary employment?

A Yes, I do know for a fact that you cannot, with a past record, secure a license in the State of New Jersey at any of the tracks.

BY REPRESENTATIVE LOPRESTI:

Q Now you do not know, do you, Mr. Finnegan, whether or not he did get the license? Some suggestion has been made that you foisted him on the New Jersey Board?

A No, I do not.

Q You do not know whether he got the license or not?

A I do not.

Q And your action did not indicate that New Jersey must give him a license?

A No, they did not.

BY ATTORNEY GENERAL McBRIDE:

Q He was not even on parole, was he?

A No sir, he was not.

Q Would there be any point in denying a pardon under such circumstances?

A Well, I wouldn't see any point in denying him a pardon.

BY MR. KOHN:

Q Have you had called to your attention any accusations against any Member of the Board or any employee of the Board in regard to having received money or exerting any political inuence with the Board?

A Will you state that again?

Q During the conduct of this investigation, have you had called to your attention or have the members of the Board had called to their attention any accusation against any member of the Board of Pardons or any employee of the Board of Pardons in connection with any case pending before the Board?

A Pending now?

Q That has been pending in the past or is still pending?

A There was a woman in here a week or ten days ago who said that she had given twenty-five dollars, I believe, or fifty dollars—well, twenty-five or fifty—I don't know which, to Mr. Hean.

Q Why wasn't it called to the attention of the Legislative Committee or to my attention?

A Because I believe she told you the same thing.

Q No, she did not tell me the same thing until much later. At that time—

A Well, I saw you talking to her the same day.

ATTORNEY GENERAL McBRIDE: So did I.

BY MR. KOHN:

Q She told me nothing.

A Well, that is strange.

Q Did any members of the Board of Pardons ever call it to our attention?

A The woman was told at that particular time that she should consult you or the members of the Board if she felt that she had anything.

Q What else did the Board of Pardons do in relation to that accusation by this woman?

A We did nothing.

Q Did you have an executive session in which you questioned her?

A We met right here.

Q Who met?

A. She insisted on talking to the members of the Board. I believe it was Mr. McBride, myself, Miss Blatt and Governor Furman.

Q How about Harner? Was he at the meeting?

A I do not recollect whether he was or not. I doubt it very much.

A It was a serious accusation, but we did not put that much credence to it.

Q And as a result, you did not cause any investigation to be made?

A I think the Attorney General told the woman at that time, he said, "Madam, if you believe there is any merit to the accusation that you are making, you should report that to Mr. Kohn or to members of the Investigating Committee."

Q Well—

A The extent of the conversation—let me say this—the extent of the conversation was about three minutes.

Q What did she accuse Mr. Hean of?

A She accused Mr. Hean of—well it was rather garbled, I must say—and I think that in itself, I mean, was sufficient to indicate to us that she wasn't completely rational in the charge that she was making. She made some charge that she gave him fifty dollars or that she gave him twenty-five dollars on two different occasions—frankly, I forget now. I forget even what the case was to be very honest with you.

Q Did not she say she gave him fifty dollars to use his influence with the Board in connection with—

A No sir, she did not.

Q Did you check into the file to see whether there were any letters in the file, as to whether Mr. Hean had written anything to her?

A No, I did not, personally.

Q Did anybody, Mr. McBride, Mr. Furman or Miss Blatt?

A You would have to ask them. I know that I did not.

Q Why didn't you cause an investigation to be made?

A Why didn't I cause an investigation to be made?

Q Yes. Weren't you interested in finding out what the facts were?

A Well, as I have said to you, I mean, that she was informed and here was this Investigation Committee sitting at the present time, and that if she felt she had anything, she should contact you and she should contact members of the Board.

Q Did Mr. Hean advise you whether or not he had received fifty dollars from her?

A No, he did not. He said that he had not. He said that he did not receive fifty dollars.

Q Did he ever tell you whether or not he had written to her at all?

A No, he said this: He said that he had taken twenty-five dollars from her with respect to seeing whether or not her interest had been guarded in an estate case which she was in. I believe she was some relative of a former mayor of Harrisburg. And she was dubious about whether or not another relative was safeguarding the interest of the estate. He went down and investigated that for her and told her that her interests were being guarded and the estate was being guarded very properly. That was why he had received the twenty-five dollars.

Q Do you think it is proper for the Secretary of the Pardons Board to advise people who may have some connection with the Board of Pardons in regard to parole or pardon?

A Do I what?

Q Do you think it is proper for the Secretary of the Board of Pardons to advise people of this kind in regard to matters that may come before the Board of Pardons?

A No, I do not, and to the best of my knowledge, Mr. Hean said that he had not advised her on that.

Q Had he ever written her in regard to—

A Well, I do not know whether he had written her or not.

Q Let me show you a letter dated August 23, 1956, and ask you whether that is not addressed to Ruby, "Dear Ruby"? Is that not on Mr. Hean's stationery, Mr. Finnegan?

A It is on Mr. Hean's stationery.

Q All right. Would you tell us the date of it, please?

A August 23, 1956.

Q And it is addressed to Mrs. Ruby Werner Costello?

A Mrs. Ruby Werner Costello.

Q Is that the woman who camplained to you?

A I would imagine it is the same woman. I do not recall her name. I might add, by the way, that this letter to her is addressed on Mr. Hean's Attorney-at-Law and not Pardons Board stationery.

Q You didn't make any investigation in regard to

whether or not he had any connection with any case before the Pardons Board? He told you it was something about an estate?

A Let me read the letter.

Q Well, sure, I would like it read into the record.

A "This morning I was able to get Mr. Theo. Reiber on the phone relative to the situation you outlined to me yesterday.

"I am sure that you realize, as I do, the necessity of our Parole system and that under our State Laws, the Parole Board and their agents have a duty to perform.

"Mr. Reiber assured me that their record indicates that Mr. Costello has settled down and is making a fine record and it is the last thing in the world they want to do, is to in any way disturb or upset the progress he is making with his concern.

"The very object of the creation of the Board by this State back in 1941 was to 1st, supervise and avoid a reversion to a life of crime of any parolee, and 2nd, to help, aid and assist any parolee who was seriously making an effort to 'get ahead' in the world.

"The Board will go to any length to help any parolee get ahead. Keep that thought in mind.

"Now there is this to be considered in the case of your husband. He has returned to the Penitentiary because of a violation of his parole by committing a serious offense in the State of Michigan. He was released again, on parole, in 1952. That is why they feel that for a few years, supervision should be continued.

"It is imperative that Mr. Costello play fair with the Board if he wants the Board to lean favorably in his direction. And so, it is suggested that Mr. Costello promptly visit the office of the Parole Agent and have a heart-to-heart talk with him. Don't let the agent prowl around the place he is employed in order to locate him. It is the agent's duty to locate him and he will make the 'old college try' to do so. Have Mr. Costello go to him and set forth the situation and show him that he wants to cooperate. So, please, have your husband make it his business to see the Agent at once. Even if he must lose ½ a day's work, it will pay off in the end. If Mr. Costello gets the chance to move to Pittsburgh at an increase of salary, I'll bet you a dollar, there will not be put one hindrance in his path of advancement.

"I cannot urge you too strongly in having Mr. Costello see his agent at once.

"You see Mr. Costello signed a Parole Agreement and that Agreement definitely ties him to abide by certain rules. One of the rules is this question of supervision. Don't let the Agent trail him down at his place of work.

"I am of the opinion that if Mr. Costello sees his agent regularly, the agent will be glad to accept his call and report without trailing all over the city of Philadelphia to locate him. The agents have a case load heavy enough without adding to the burden.

"Mr. Costello can explain why calls at his employer or his home disturbs and hinders.

"Let me know the result of Mr. Costello's call upon his agent.

"I have mailed to you today the necessary forms covering Petition for a Commutation of the maximum sentence.

"Pardon the long letter—but I felt this matter is urgent and needs explanatory words."

Letter addressed to Mrs. Ruby Warner Costello from Frank R. Hean, dated August 23, 1956—produced, marked for identification and received in evidence as Committee's Exhibit No. 41.

AJP 4/29/57.

BY MR. KOHN:

Q Is there anything in there about this estate Mr. Hean told you about?

A No.

Q Now what was the date of that letter?

A August 23, 1956.

Q The letter you read, Mr. Finnegan, had something to do with the Parole Board, did not not?

A It spoke specifically of the reasons why Mrs. Costello's husband should report to the Board of Parole agent without giving him any undue worry or any undue hindrance.

Q I show you Exhibit No. 42, Mr. Finnegan, and ask you whose stationery that is on?

A That is on the Board of Pardons' stationery.

Q It is dated what, please?

A February 28, 1957.

A And what date was this lady in here to talk to you and the rest of the Board, do you recall? About three or four weeks ago, wasn't it?

A Yes. Two or three weeks ago.

Q Now would you please read that letter?

A This is addressed to Mr. James Costello.

"Dear Sir:

"Your letter addressed to the Attorney General has been referred to me for reply.

"You are eligible, as you know, to re-apply for a commutation of your maximum sentence one year after hearing, which would make it December 1957.

"In order to receive a re-hearing it will be necessary for you to set forth new matter not previously heard by the Board, and then the Board has the right to pass on your petition and withhold, or refuse, a re-hearing. I would suggest that you apply in December 1957 and have your application in our hands on or before the 10th day of October. You can secure an attorney to represent you and I am sure that a third party presentation of your plea might prove more effective than your personal presentation of the merits."

"Very truly yours,

"Frank R. Hean,
"Secretary."

Letter addressed to Mr. James Costello from Frank R. Hean, dated February 28, 1957—produced, marked for identification and received in evidence as Committee's Exhibit No. 42.

APJ 4/29/57.

BY MR. KOHN:

Q He says he feels he ought to get a lawyer to get more consideration.

A Than if he personally presented his own case.

Q Mr. Hean signed it?

A That is right.

BY CHAIRMAN TOMPKINS:

Q Now are there copies of those letters in the file of this case?

ATTORNEY GENERAL McBRIDE: File of what case. Mr. Chairman? There wouldn't be.

CHAIRMAN TOMPKINS: The Costello case. Well, if these are letters written in connection with this case, copies of all other communications are in there.

ATTORNEY GENERAL McBRIDE: It is dated February 1957, isn't it?

THE WITNESS: This is February 1957, one letter; the other letter is August 23, 1956.

CHAIRMAN TOMPKINS: There was an application before the Board in 1956, was there?

MR. KOHN: There was an application before the Board in December of 1956. It was filed on October 23, 1956.

THE WITNESS: Which was the regular time, I mean, for this hearing. This one says Esposito.

MR. KOHN: He goes under that nickname.

BY MR. KOHN:

Q Mr. Finnegan, do you know whether or not the Attorney General had an investigation made of this complaint by Mrs. Costello?

A The Attorney General is four feet from me. I know of no investigation.

Q He didn't call any to your attention?

I will show you a letter dated April 5, 1957, addressed to Thomas M. Reed, Assistant District Attorney, Philadelphia.

CHAIRMAN TOMPKINS: Get his letter to him first. There is one of April 3 in there.

BY MR. KOHN:

Q Was there a letter from Thomas M. Reed, Assistant District Attorney, to the Board of Pardons, dated April 3, 1957?

A Yes.

Q Does that start out, "Dear Members"?

A Yes.

Q Was that ever called to your attention?

A No, it was not.

Q Would you please read that letter? If you like, I will be glad to read it.

A No, I will read it.

Q Would you read that into the record?

"Honorable Board of Pardons,
"Capitol Building,
"Harrisburg, Penna.

"In re: Gennaio Esposito
Dec. 1956—#10

"Dear Members:

"It has come to my attention that the wife of the above named applicant has bitterly complained to the Board and made assertions which, if true, indicate a lack of polite consideration by your Honorable Board and its clerk.

"In the latter part of November, 1956, I assigned a County Detective to investigate the background of this applicant and during the course of the interview this wife became very upset and severely castigated the County Detective making the investigation. He then called me from her home and informed me of her complaints whereupon I spoke with her. In the course of this conversation she told me of her numerous important political contacts in high places throughout the State and of the yeoman service she had rendered one of the dominant parties, I believe for the purpose of influencing my opinion. Approximately one day later, she again called me and similarly attempted to impress me with her political importance after which I informed her that I was not interested in her political contacts and asked her to refrain from calling me further. She then said that she would take this matter up with my superior, Mr. Blanc.

"Among other things related in this conversation, she informed me that she was a personal friend of Mr. Frank Hean, clerk of your Honorable Board and that she was also going to communicate with him. On the next day, the applicant herein came in to see me personally and asked me to ignore all of the things which his wife had said in that she was an extremely nervous individual and he hoped that the opinion of this office in the matter would not be influenced in any way by her conduct. He explained that this was one of his marital problems which he had been compelled to live with for a number of years.

"If I can be of any further service to your Honorable Board, please do not hesitate to call upon me."

Letter dated April 3, 1957 to the Board of Pardons from Thomas M. Reed, Assistant District Attorney—produced, marked for identification and received in evidence as Committee's Exhibit No. 43. AJP 4/29/57

THE WITNESS: Now let me say when I said before that this was not called to my attention, I spoke too hastily because the day the woman was here, Mr. Hean did make mention of the fact that Tom Reed had written a letter along these lines, though I did not see the letter at that particular time.

BY MR. KOHN:

Q I call your attention, Mr. Finnegan, to a copy of a letter dated April 5, 1957, addressed to Thomas M. Reed, Assistant District Attorney, on the Department of Justice, Board of Pardons' stationery. Would you read that letter, please?

A "April 5th, 1957.
"Thomas M. Reed, Assistant District Attorney,
"Philadelphia County,
"Room 666, City Hall,
"Philadelphia, Pennsylvania.

"In re: Genniao Esposito"

"Dear Mr. Reed:

"I indeed appreciate your letter to me and to other Board members relative to the wife of the above named. In a phone conversation with her brother—Leo Werner—he expressed the thought that she was NOT to be relied upon. Indeed he was rather vigorous in his language relative to his sister's conduct and actions.

"Mrs. Ruby Werner Costello Esposito has been in the Hearing Room of the Investigation Committee for two days—Wednesday and Thursday. So far she has NOT been heard. On Wednesday noon, I asked Governor Fur-

man to call a special meeting of the Board and have her present. The Governor did so, and she 'blew her top' and accused me of double crossing her; that I took $50 from her to see that her husanbd was released from Parole, etc. She stated that I withheld the Parole Board Investigator's report. Well, the file showed that the Investigator's report was before each member of the Board when the case was heard—and my comments on the Analysis Sheet repeated verbatim the favorable comment of the Investigator. That accusation immediately faded, then she brought up this $50 payment. I showed by my little book of fees which I keep, that during the summer she paid me $25 for checking into the Executor's Account of her brother Leo, executor of her father, George Werner—to learn if he had properly administered the Estate. I found that he so had properly performed his duties and made an honest accounting. For my time and advice in the matter I charged her a nominal fee $25. I denied receiving $50.

"Ruby may be back next week. I do not know. The Committee is scheduled to sit, beginning Wednesday 10th, at 10:00 A.M. I would not be surprised to see my 'pursuing nemesis' again sitting in the Hearing Room. Certainly her accusations, false though they be, would make nice headlines in the Philadelphia Inquirer.

"It strikes me that if her husband desires to be relieved from Parole supervision upon the recommendation of the Parole Board at the end of five years of good behavior, it might be advisable for him to curb his wife's activity. I venture the opinion that the husband does NOT know what she has in mind or the effect it might have upon him. At present her brother George is in the Harrisburg Hospital in a critical condition—heart—and she may be using that reason for coming to Harrisburg. However, she has failed to call at the hospital to see her brother on either Wednesday or Thursday.

"Of course I would not write her husband. Any letter would be intercepted and if mailed to his employment address, I might disturb him in his job.

"Any how, thanks, so much for your good letter of 3rd of April, 1957."

"Sincerely,

"Frank R. Hean,
"Secretary."

Letter dated April 5, 1957 from Frank R. Hean addressed to Thomas M. Reed, Assistant District Attorney—produced, marked for identification and received in evidence as Committee's Exhibit No. 44. AJP 4/29/57

BY MR. KOHN:

Q The letter from the Assistant District Attorney was addressed to the Board, is that correct?

A That is right.

Q Did the Board authorize the letter Mr. Hean sent to Mr. Reed in answer to that letter?

A Well, I did not authorize any such letter. I cannot speak for the other members of the Board.

Q Mr. Hean then wrote Mr. Reed that letter thanking him for the letter addressed to the Board of Pardons giving his version of the matter?

A That is true. I think Mr. Reed, I am not sure whether he was up here the day that woman was in the room or not. It could well have been that he volunteered that information to Mr. Hean at that time. That is just an assumption on my part.

Q Just one other question. Did you or any other member of the Board of Pardons ask Mr. Hean to produce any files showing that he had written to this woman in connection with that estate?

A No, not to the best of my knowledge.

Q Did you ask him to do that?

A No, as I told you I think the entire meeting took about two or three minutes, no longer than three minutes.

Q He said, however, that he had not talked with her or advised her on any matter in regard to matters that may have come before the Board of Pardons?

A That is right, and the Attorney General said that he felt that if she had any accusation at all which she wanted to make with respect to Mr. Hean or his reference to the matters that appear before the Pardons Board that she should immediately contact you and contact the members of the Investigating Committee and give them the details of any accusations she wished to make. Later on I saw her talking to you, and I assumed that she told you the same thing and that perhaps you had arrived at the same conclusion we had arrived at.

As one member of the Pardons Board, I want to say that she did not contact me and that she did not talk to me. I do not believe I know who you are talking about.

Q You did not hear her separately after we had gone, is that correct?

A It was pretty public. It was right back here.

Q You knew what her accustations were, but you did not call me or any member of the Board to come in and listen to her story at that time?

A I had no knowledge at all of what her accusations were. The Lieutenant Governor said to me, this woman would like to talk to the members of the Board.

Q Mr. Hean did, however, write her letters in connection with her husband's status before the Pardons Board, did he not?

A Yes. Well, he wrote one letter telling her, advising her, that her husband should certainly obey the rules of parole and that he should not give any difficulty to the parole agent.

Q Does that come within the purview of his duties before the Board of Pardons?

A Well, I do not know. I would say that I would not see anything drastically wrong with him saying to abide by the rules of the Parole Agent and that if you contemplate filing a petition for commutation or a petition for a pardon, as the case may be, that one of the requirements is that the Parole Agent give you a favorable report. That was the gist of that letter.

Q Do you approve of the letter in which he says you had better get an attorney, you will get more justice than if you present your case yourself?

A Well, I think perhaps he should not do that. Certainly I think it is pretty well known that a man who comes up and presents his own case, I mean he usually does a poor job and consequently if he is represented by someone who looks at the case more objectively than he himself does, the case is presented in a better manner. I think that has been our experience on the Board.

Q Did Mr. Hean tell you that this estate was over twenty years old?

A The estate, no.

Q I didn't mean twenty; I meant ten.

A Well, of course, estates can run ten, twenty or thirty years.

MR. KOHN: That is all.

ATTORNEY GENERAL McBRIDE: Last time it was up before the Board, it was turned down.

THE WITNESS: Yes, the petition was refused.

MR. KOHN: I think she represented herself, didn't she. Mr. McBride?

ATTORNEY GENERAL McBRIDE: I haven't the slightest idea.

MR. KOHN: I meant to say he represented himself.

BY CHAIRMAN TOMPKINS:

Q Well now, Mr. Finnegan, this was a pretty serious accusation. Don't you think this was serious enough that some member of the Board should have come to this committee to advise them about it rather than to let us find out about this the hard way?

A Mr. Tompkins, this woman had quite a lengthy conversation with your counsel that same day.

REPRESENTATIVE LOPRESTI: And at that point I think counsel should have informed us.

CHAIRMAN TOMPKINS: She did not say anything to counsel about it. That is the funny part of it.

SENATOR YOSKO: Mr. Chairman, you apparently knew about this case before today, and our counsel knew about this case before today. In justice to everybody I think really what should have been arranged was for that woman to be here to testify for herself.

THE WITNESS: Mr. Chairman, may I say this that we did not consider it of utmost importance having talked to the woman. She was evidently suffering from severe mental strain at the time she was talking to us. She was completely irrational in what she was saying. She brooked no interference at all, and we felt that this was strictly one of those people, I mean, who have a tendency to get themselves in print by making wild and reckless charges. And I thought that the Attorney General handled it very well when he said to her that counsel for the committee is here; you should see him and explain your charges and also explain them to the members of the committee.

I think you would agree with me if you saw her on the stand, and if she is permitted to testify, how much credence you would place in the testimony she would give.

SENATOR YOSKO: That is one of the reasons why she is not here.

CHAIRMAN TOMPKINS: She was subpoenaed.

MR. KOHN: Let me answer Mr. Lopresti's question, and Mr. Finnegan's, too. This woman wasn't talking to me for a long time. She would give me no statements. She called me on the phone and she beat around the bush. When Mr. Finnegan saw me talking to her back there, she wouldn't tell me anything.

ATTORNEY GENERAL McBRIDE: Didn't her sister work for you?

MR. KOHN: Yes.

You talk about having her here. We had her here three days last week. And here is the subpoena.

REPRESENTATIVE DOPRESTI: She was here three days last week but members of the Board, as far as I know, were completely ignorant of it—at least I, as one of the members of the Committee, was completely ignorant of it until you mentioned it here today. I think this is withholding information from the Committee—something which it should know.

THE WITNESS: I would think that this was perhaps by far the most serious thing that has been leveled in this whole investigation.

REPRESENTATIVE LOPRESTI: That is right.

THE WITNESS: And to say that this woman was here three days last week and she was not called to the stand strikes me as being something that should be looked into very closely.

CHAIRMAN TOMPKINS: Well, Mr. Finnegan, it is just in the reverse. We asked on several occasions last week very specifically whether there was anything else the Board wanted to tell this Committee. We were trying to find out whether the members of the Board of Pardons would inform this Committee about what this woman had done.

We found out the hard way, and it might interest you to know—

ATTORNEY GENERAL McBRIDE: You asked the Board? You asked me what?

CHAIRMAN TOMPKINS: Whether there was anything else the members of the Pardons Board had to disclose to this Committee. We asked that on two different occasions.

ATTORNEY GENERAL McBRIDE: You mean that we —and your inference is that we did not tell you about this woman when we saw her talking with Mr. Kohn, this woman who gave an appearance—

MR. KOHN: You do not know what she told me.

ATTORNEY GENERAL McBRIDE: We didn't know what she told you, but she gave an impression right here, right here in this room. I saw her only once. I had never seen these letters. She gave the appearance of a woman really—if you saw her—

SENATOR YOSKO: And I want to say—

ATTORNEY GENERAL McBRIDE: . . . of an excited individual who was really gushing out and terribly nervous.

SENATOR YOSKO: And I want to say for the record, too, that in executive session, we on numerous occasions discussed additional witnesses to be heard, additional cases to be heard, and this matter was never mentioned to the members of the Committee by either the Chairman of the Committee or by counsel of the Committee, both of whom were present.

THE WITNESS: It is hard to believe that Mr. Kohn did not know that since the woman's sister was his secretary.

CHAIRMAN TOMPKINS: We first learned about this after the time Charles Smith was here. He mentioned a couple of cases. It was sometime after Mr. Smith was here that this woman voluntarily went to Mr. Kohn, counsel, and disclosed to him that she was one of the people who Mr. Smith was referring to.

MR. KOHN: That was after she had talked to the Board.

CHAIRMAN TOMPKINS: Yes, that was after she had talked to the Board here. We then went into an investiga-

tion of the thing and found out from her that she had laid this entire matter before the Board of Pardons.

THE WITNESS: Did you talk to her yourself, personally?

SENATOR YOSKO: I am wondering why you as Chairman of this Committee, and why counsel for the Committee, did not inform this Committee as a whole about this matter?

REPRESENTATIVE LOPRESTI: Well, in view of the fact that I think it is a most serious accusation, the most serious thing that we have encountered so far, I believe the investigation should be continued and that that particular phase should be investigated down to the last ditch.

THE WITNESS: I could not agree with you more.

ATTORNEY GENERAL McBRIDE: Neither could I.

REPRESENTATIVE LOPRESTI: And our agreement of adjournment as far as I am concerned is off until we have aired this matter, because it is a serious accusation and should not be left hanging in the air.

MR. EVANS: I can clarify some of the issues—

ATTORNEY GENERAL McBRIDE: How about me?

MR. EVANS: . . . regarding her, just regarding her.

(Witness excused.)

JAMES EVANS, Recalled

DIRECT EXAMINATION

BY MR. KOHN:

Q Now, Mr. Evans, was she asked to come back here this morning?

A Yes.

Q Did you talk to her this morning?

A I did. I talked to her on the telephone at quarter to eleven.

Q Do you have the subpoena here?

A Yes. If I may just for a second go back to tie up some of the loose ends we have discussed here. As you recall, when this fellow Smith from Philadelphia was here, the attorney from Philadelphia, there were some cases in which I believed he inferred, or maybe even said outright—I cannot recall the exact testimony—there were some payments or payoffs or something of that nature. That thing sort of died down. It did not leave my mind. I pursued it. In pursuing it I came across Mrs. Costello and her husband.

I had a telephone call saying that a woman—no name, no address, no case, nothing—would call me probably some time during the third day of April while we were in session here. As you will recall, I think we had sessions the third and the fourth of April, a Wednesday and a Thursday. So I was aware that a woman may try to contact me. And this woman came into the hearing and sat in the back of the room.

After the hearing was over, I went back to her and asked if she was looking for someone.

BY CHAIRMAN TOMPKINS:

Q Did you then know who she was?

A I had no idea who the woman was. This will sort of clarify it. As I say, I was aware the woman was to contact me. This woman was in the back of the hearing room. I went back to her and asked her if I could help her and asked if she was looking for someone. She said, no. She was, as has been testified here, quite nervous.

She said she wanted to see Mr. Furman, and I pointed Mr. Furman out to her, although I believe Mr. Furman was at that time over in that end of the room talking to some other people.

I then left and came over to Mr. Kohn and said, "I do not know, but I think that woman is the woman who is supposed to contact me. She just looks suspicious or sounds suspicious." He went over to talk to her. At that time he said to me, "I think I know her. I think her sister worked for me at one time." And he went to talk to her.

BY REPRESENTATIVE BELL:

Q Is this the first time you had knowledge of the mystery woman?

A Yes, and even at that point I did not know who she was. I was just suspicious of her. Mr. Kohn went over. As a matter of fact, I said, "You go over and talk to her," and he went over and talked to her. I do not know whether he learned her name, but I was standing a short distance away when she said she wanted to talk to Mr. Furman. And I know that I saw Mr. Kohn within two minutes after and I said, "Who was she?" He said, "She is nobody. I knew her sister," or words to that effect.

Then she left Mr. Kohn and went over to talk with Mr. Furman and Mr. Hean.

Then—I am just trying to recall—she called me. My notes show that she called me at my office in Harrisburg on Saturday morning, the 6th of April, and identified herself to me as the woman I had spoken to in the hearing room the previous Wednesday.

She would not tell me too much over the telephone. As a matter of face, she indicated she did not want to talk to me at all. At any rate, on the 12th of April, which was Friday, Mr. Arnold and I went to Philadelphia and we interviewed her personally. We interviewed her husband personally. We interviewed his employer personally.

At that time I subpoenaed her for the 22nd of April, which was a Monday. She was here on the 22nd of April. We were involved in other business, and it would have taken the whole thing out of context had she been called. I believe she was informed at that time to return the following Thursday. She again showed up on the following Thursday, and we were still involved in—I don't know what phase of this thing we were involved in at that time.

She was informed to be here at 10:00 o'clock this morning. At 10:00 o'clock this morning I was waiting for her. She did not show up. I waited 45 minutes and then I called her on the telephone in Philadelphia. I spoke with he personally. She said she was not coming; she was afraid to testify at an open hearing.

That is what I know about her failure to be here, but I subpoenaed her personally in the presence of Mr. Arnold.

BY MR. KOHN:

Q Do you have the subpoena there?

A Yes, here is the subpoena.

BY ATTORNEY GENERAL McBRIDE:

Q Do you propose to enforce the subpoena by contempt, if necessary?

A I do and I informed Mrs. Costello over the telephone this morning that if she did not answer the subpoena,

that the subpoena was still in effect and it would merely be postponed from one day to another, and that in all likelihood it would be necessary for us to send down the State Police to pick her up and bring her up here to testify. And she hung the phone up.

Q Now who first called you about her?

A Mr. Smith.

Q Charles Smith, the lawyer?

A At that time he would not give me the name. He said there was a woman—

Q Yes, but I mean that the Mr. Smith who called you, was Mr. Smith, the lawyer, who testified here?

A Oh, yes sir. Charles F. G. Smith.

I did pursue him, understand. As a matter of fact, I think I imposed on him because the accusations that he leveled here, I felt, as Mr. Finnegan said, are probably the most serious that we have had to date.

BY CHAIRMAN TOMPKINS:

Q Did Mr. Smith at any time disclose to you the name of this woman?

A No, he would not.

Q She voluntarily came forth on it?

A I think, as I can recall the conversation, I think Mr. Smith attempted to have her contact me, and she had refused. As I gather it, in my own thinking somewhere, she had made up her mind that she was going to contact us herself, and called Mr. Smith and said that she would do so, but he said he did not feel that he was in a position to give me definite information whether she would or she would not come up.

BY ATTORNEY GENERAL McBRIDE:

Q The first time you actually saw her was in this Senate Caucus Room?

A Absolutely, yes sir.

Q And then, as I gather your statement of events, she first talked to Mr. Kohn?

A No, she talked with me first. We had a brief conversation.

Q Then she talked to Mr. Kohn.

A Yes sir.

Q And then, afted having talked to Mr. Kohn, she talked with Governor Furman?

A As I recall it, yes.

Q Were you present when Governor Furman asked the other members of the Board of Pardons to step over to see this woman?

A No.

Q Do you know—well, you were not present. I was just going to ask you another question, but you would not know the answer to that.

How long have you known what this woman's story was?

A Since the 12th of April. That is a little over two weeks.

Q Seventeen days.

A Yes sir.

Q When did you get the letters which were produced here?

A When I subpoenaed her in her apartment on the 12th of April. I did not get the letters at that time, but I did read them at that time.

Q And when did you actually get physical possession of them?

A I believe it was the 22nd when she was originally subpoenaed if my memory serves me correctly.

Q And you have had those letters since?

A That was a week ago, a week ago, today.

Q When was it that you first learned the content of what she would testify if she were called?

A When I subpoenaed her on the 12th.

ATTORNEY GENERAL McBRIDE: The 12th. All right.

CHAIRMAN TOMPKINS: Gentlemen, there is a caucus that now needs this room. We will, therefore, defer further inquiry on this particular matter until, tentatively at least, Wednesday at 10:00 o'clock, depending upon what our Legislative schedule is for that day.

ATTORNEY GENERAL McBRIDE: Is there not somewhere else we could go? Mr. Hean would like to be heard.

CHAIRMAN TOMPKINS: The Senators cannot continue to wait at this hour.

SENATOR YOSKO: He can be heard at the next sitting.

ATTORNEY GENERAL McBRIDE: It will get to be an old story by Wednesday. Is there some other room to which we could adjourn?

REPRESENTATIVE BELL: Members of the Committee are tied up.

(Discussion off the record.)

SENATOR FLEMING: Just a minute, Mr. Chairman, I believe there is a reflection on Mr. Hean, and he should be permitted to testify. I am sure the Caucus would give us five minutes to do that, won't you, Senator Taylor.

SENATOR TAYLOR: Certainly.

FRANK R. HEAN, Recalled

THE WITNESS: May I say a word in explanation to a very serious charge that has been made by a woman? Her name is Ruby Werner. She is a sister of Leo Werner, ex-Postmaster of Harrisburg, and also a sister of the late George Werner, who died a few days ago, who was Secretary of the Remington Company. She is one of eight or nine children of the late George Werner who died about ten years ago.

She came into my office in August of 1956 on the story that her brother, Leo, had deprived her through shenanigans—and other words she used of a violent nature—of her rightful share of the estate of her late father.

I knew nothing of the case. I went over to the Registrar of Wills' office, checked the account, the inventory, and the other matters that are on file in the Registrar of Wills' office of Dauphin County, to find the story. She came back in about a week or ten days, and I told her personally that that administration of the estate was as fine as you will get. There is not one thing that was improper or irregular in it.

For that service, I charged her $25. Then she said she would like to make an application for the commutation of the maximum sentence of her husband and I talked to her about that; and then I sent her, on the receipt of $2, a set of commutation forms.

The husband came up in December. He presented his own case in a very faltering and a very hesitant manner, and the Board refused the case.

Now following that I heard nothing from her until in early April. She called me on the phone and said that I was a double-crosser and had taken her money and cheated her out of it. I said, "In what way did I do that,

Ruby?" She said, "you held down or submerged the report of the parole agent that was favorable."

She appeared here. I had the folder which you have now. It was quite self-evident that the parole agent's report was favorable. I had so noted it.

When she says that I took money from her to influence the application of her husband for a commutation of his maximum sentence, she is a liar.

I took $25 for independent work, looking into the Registrar of Wills' office as to the administration of her brother's affairs as administrator-executor of the estate of her late father and I charged her a nominal fee of $25. If she thinks for one minute that $25 was influencing —she says $50—she is a liar. She gave me $25. I have a record of it. I keep a little memorandum book of fees received as a lawyer. I have that entered thereon and I would be glad to show it to the Board.

She is telling an absolute untruth.

BY ATTORNEY GENERAL McBRIDE:

Q Now, very briefly, a couple of questions: Was she here one day and did the Lieutenant Governor ask the rest of us to come over to hear her story?

A She was, and the Lieutenant Governor asked the four members of the Board to meet at that table and hear her out.

Q Right in this room?

A Right in this room.

Q And there was no special meeting of the Board other than that little talk we had with her, was there?

A That is the only meeting.

REPRESENTATIVE BELL: General, to keep the record straight, you mean the Pardons Board?

ATTORNEY GENERAL McBRIDE: The Pardons Board, yes.

THE WITNESS: The Pardons Board, yes.

ATTORNEY GENERAL McBRIDE: This is the Committee. We use that language.

BY ATTORNEY GENERAL McBRIDE:

Q Now, was she somewhat distraught then and unconnected in her nervousness, and so forth?

A She made the accusation that I had received from her, I think it was, $50 for the purpose of influencing the action of the Board. She further said that I had double-crossed her in not including in the folders which went to each member of the Board a report of the parole agent that was quite favorable.

When I opened the folder and showed her that it was quite favorable and so noted not only on the report in each member's folder but also on the analysis sheet, then she stopped and began to mumble and carry on, became quite irrational, whereupon the Attorney General informed her to communicate with either Mr. Kohn or the Committee as it sits here if she had anything further to say. She had nothing further to say.

BY MR. KOHN:

Q How much time elapsed between the time you saw her and showed her the parole agent's report and the date you saw her here in the Committee room?

A That is when I showed it to her, in this Committee room, if that is what you are talking about.

Q The time she was here was the time you showed her the parole agent's report?

A Yes, it was in the folder.

Q When did you give her the forms for commutation?

A She gave me two dollars to mail them. I have forgotten the date. It was possibly late August or early in September.

Q And you have a record of that income of $2?

A Yes, I do, upstairs.

Q Do you think you can show that?

A I can show that.

Q And, subsequently, then you wrote letters to her on your own stationery and the Board of Pardons' stationery?

A Yes that was—

Q In connection with her case?

A Well, I would not say that. She accused the Board of Parole of hounding her husband.

Q Well now, was this an oral communication from her?

A That was when she saw me, yes.

Q It was an oral communication?

A Yes.

Q So she wrote nothing to you to which you would have to send a reply?

A No, not necessarily. One time she phoned me, and that is the letter of August 23d.

Q She phoned you and then you wrote her a letter?

A I wrote her a letter, yes.

Q And then you sent her another communication? Did she phone you at that time?

A The one of February 28, 1957. She addressed this letter to the Attorney General and he turned it over to me for reply.

MR. KOHN: All right. That is all.

BY CHAIRMAN TOMPKINS:

Q Did you ever send her a written communication of any kind in connection with your examination of her father's estate?

A No, no, it was all verbal.

Q That was all verbal?

A All verbal.

CHAIRMAN TOMPKINS: We will recess until 10:00 o'clock, Wednesday morning on a temporary basis.

(Discussion off the record.)

(Whereupon at 1:30 p. m. the hearing adjourned until 10:00 a. m., Wednesday, May 1, 1957.)

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and this is a correct transcript of the same.

A. J. PLESCE

Reported by:

Anthony J. Plesce
Box 582
Harrisburg, Penna.

BEFORE THE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

AT HARRISBURG, PENNSYLVANIA, MAY 1, 1957

VOLUME XVI

PATRICIA L. SAYER
P. O. Box 496
Harrisburg, Penna.
CEdar 2-2832

INDEX

Committee's Witnesses	Direct	Cross	Redirect	Recross
James W. Evans (Recalled)			2811	2814
Leslie Jackson	2815			
Russell Knies	2817	2823		

EXHIBITS

Committee	Identified and Received
Exhibit No. 45— Certified copy of subpoena to Ruby W. Costello, containing signature of James W. Evans	2811
Exhibit No. 46— Certified copy of subpoena to Ruby W. Costello, containing signature of Leslie Jackson	2816

BEFORE

JOINT LEGISLATIVE COMMITTEE TO CONDUCT AN INVESTIGATION OF THE BOARD OF PARDONS, PURSUANT TO HOUSE RESOLUTION No. 1, PRINTER'S No. 8

Stenographic report of hearing held in Senate Caucus Room, Main Capitol Building, Harrisburg, Pennsylvania, at 11:45 a. m., Wednesday, May 1, 1957.

PRESENT:

REPRESENTATIVE EDWIN W. TOMPKINS, Chairman.

REPRESENTATIVE CLARENCE D. BELL.

REPRESENTATIVE PHILIP LOPRESTI.

SENATOR ROBERT D. FLEMING.

SENATOR JOSEPH J. YOSKO.
Members of Committee.

APPEARANCES:

THOMAS D. McBRIDE, ESQUIRE, Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

VICTOR H. WRIGHT, ESQUIRE, Deputy Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania
For—Board of Pardons.

DAVID S. KOHN, ESQUIRE, 9 N. Front Street, Harrisburg, Pennsylvania
For—Committee.

JAMES WILLIAM EVANS, ESQUIRE, 5 N. Front Street, Harrisburg, Pennsylvania
For—Committee (Assisting Counsel).

JAMES K. ARNOLD, ESQUIRE, 2109 Market Street, Camp Hill, Pennsylvania
For—Committee (Assisting Counsel).

CHAIRMAN TOMPKINS: Mr. Kohn.
MR. KOHN: Mr. Evans, will you take the stand, please?
JAMES W. EVANS, Recalled.

FURTHER REDIRECT EXAMINATION

BY MR. KOHN:

Q Mr. Evans, you are Associate Counsel for the Committee. Did you, on the 12th day of April, 1957, subpoena Ruby W. Costello to appear before this committee on the 22nd day of April 1957 at 10:00 a. m.?

A I did, in the presence of Mr. Arnold, another Associate Counsel of the Committee.

Q And this is the subpoena?

A That is.

Q Did you make a return as having served that subpoena?

A I did.

MR. KOHN: We offer this in evidence.

Certified copy of subpoena to Ruby W. Costello, containing signature of James W. Evans, produced, marked for identification and received in evidence as Committee Exhibit No. 45. PLS 5-1-57.

BY MR. KOHN:

Q Now, Mr. Evans, I think that you stated yesterday that you talked to Mrs. Costello. What time did you talk to her?

A It was around a quarter of eleven, if my memory serves me correctly. It was before I took the stand here.

Q And was that the only time you talked to her yesterday?

A That is correct, that is Monday.

Q That's Monday, that is right, Monday. And did she tell you whether or not she would appear as she was directed to yesterday morning?

A No, she told me that she would not appear.

MR. KOHN: And questions?

ATTORNEY GENERAL McBRIDE: No questions.

BY CHAIRMAN TOMPKINS:

Q Mr. Evans, she did appear on one day last week in response to this subpoena?

A She appeared—she was at the Capitol the two days that we held hearings. I believe it was a Monday and a Thursday, the 22nd and the 25th I think.

Q When she was here on Thursday, was she given witness fee money to meet her travel expenses?

A I wasn't personally present when that happened but I understood that she was given $10.00 to account for some of her train fare for two trips to Philadelphia.

Q Now what did you tell her on Thursday regarding her returning here on Monday of this week?

A I instructed her that the subpoena was still in effect; that is was merely postponed; that she was again to appear before the committee at 10:00 o'clock on Monday, which was this past Monday. When she did not appear, I waited in the hallway out here several times, in the main entrance. I went out and left the hearing room several times and then about a quarter of eleven, I went out and I called her from the committee room telephone at her home in Philadelphia and I spoke with her, and at that time I asked what she was doing in Philadelphia, if she was coming to Harrisburg and she said, "no." I attempted to talk her into coming up here, and at that time I believe I did make a statement to her, in attempting to get her here, that we may have to send the State Police.

Q Now that is Monday, April 29, 1957?

A That was two days ago, yes sir.

BY MR. KOHN:

Q Have you talked to her anytime since then?

A No.

FURTHER RECROSS-EXAMINATION

Q Was she here in this room on Thursday?

A No sir.

Q I didn't see her. That is why I wondered. She was in Harrisburg though somewhere?

A She was outside of the committee counsel room. I spoke with her. We were on some other case and I told her to come back the following Monday.

ATTORNEY GENERAL McBRIDE: No further questions.

CHAIRMAN TOMPKINS: That is all, Mr. Evans.

Now, Mr. Kohn, I think maybe you ought to say what happened on Monday, after you got your report from Mr. Evans that she was not going to appear.

MR. KOHN: What we did—I got in touch with the Attorney General who very graciously offered to lend the assistance of the State Police in getting her here and pursuant to that offer, I called the Attorney General to send Sergeant Jackson over and he did, and you and I issued a subpoena which we gave to Mr. Jackson to serve on her in Philadelphia and bring her here this morning.

CHAIRMAN TOMPKINS: And that was Monday afternoon?

MR. KOHN: That was Monday afternoon, immediately after the hearing, yes. Maybe I ought to put Jackson on first.

LESLIE JACKSON, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q What is your full name?

A Leslie Jackson.

Q Did I interview you Monday afternoon immediately after the hearing, Mr. Jackson?

A You did.

Q In the company of Mr. Tompkins?

A Yes sir.

Q And did we at that time issue a subpoena for Ruby W. Costello to appear here this morning at 10:00 a. m.?

A You did. Here is the subpoena.

MR. KOHN: We offer this into the record as an exhibit.

Certified copy of subpoena to Ruby W. Costello, containing signature of Leslie Jackson, produced, marked for identification and received in evidence as Committee Exhibit No. 46. PLS 5-1-57.

BY MR. KOHN:

Q And you did make an attempt to subpoena her?

A I did.

Q And where?

A In Philadelphia and in Baltimore, Maryland.

Q And what time did you attempt to subpoena her? When was the first that you went to her residence?

A Approximately 4:00 o'clock yesterday afternoon.

Q And who was with you?

A Lieutenant Knies.

Q And you made a return on that subpoena?

A Yes sir.

Q Were you able to find her?

A No.

MR. KOHN: Any questions?

ATTORNEY GENERAL McBRIDE: I have no questions.

MR. KOHN: I will have Lieutenant Knies relate the rest of it.

BY MR. KOHN:

Q Your occupation is a Pennsylvania State Policeman?

A That's right.

RUSSELL KNIES, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOHN:

Q Your name is Lieutenant Russell Knies?

A That's right—K-n-i-e-s.

Q And you are with the Pennsylvania State Police?

A I am.

Q For how long have you been a State Policeman?

A Almost twenty-eight years, sir.

SENATOR YOSKO: Talk a little louder, will you please?

THE WITNESS: Almost twenty-eight years.

BY MR. KOHN:

Q And were you with Sergeant Jackson attempting to serve the subpoena on Ruby Costello?

A I was.

Q Now will you just kindly relate to us what happened in the attempt to serve this subpoena?

A Yes sir, we left—

Q Just keep your voice up, please.

A We left Harrisburg I think just a little bit before 2:00 o'clock and went down to Philadelphia at the address, 5448 Angora Terrace and found no one home and

we made repeated contacts at this address, and about some time, approximately 7:00 o'clock Daylight Saving Time, we met with success.

We met James Costello who identified himself as the husband of Ruby Costello, and he invited us in and we told him why we were there, of course. He said that Ruby Costello wasn't there and hadn't been there since Monday. We asked him about what time she left on Monday and he said, "Well it was Monday evening," if I recall correctly.

He said she had received a call from Harrisburg, from Mr. Evans, and had packed a bag and left. So, we asked him if he had heard from her since then. He said, "no," but he had sent a telegram to an address near Baltimore, Maryland where she had a sister living, a Mrs. Stephen Shugard. The telegram he had he said was returned as undeliverable and there was no telephone at that address, and he didn't know what to do but he felt, however, that she might still be there. She may have gone there and might still be there, so we left Baltimore—

Q Philadelphia you mean.

A We left Philadelphia for the Baltimore area at approximately 7:30 or it may have been five or ten minutes either way, and got down to this Edgemere section of Baltimore County.

Q The New Jersey police were with you at that time?

A We had Maryland State Policemen with us, yes, and we were able to locate this without any trouble.

We were admitted to the residence of Stephen Shugard by a woman who identified herself as a Mrs. Baker, a sister of Ruby Costello. Mrs. Baker stated she had just come down from Harrisburg late yesterday afternoon by bus.

Q You mean late yesterday, meaning Tuesday?

A Tuesday, that's right, Tuesday by bus and that her sister was there.

Q That is, now you are talking about Ruby Costello?

A Ruby Costello's sister was there as well as Mrs. Shugard.

Q Is Mrs. Shugard also a sister?

A Yes sir.

Q Go ahead.

A Mrs. Baker stated that Ruby Costello had left the sister's house at approximately 8:00 o'clock, as nearly as she could determine, in a car which was her car she said.

Q That is Ruby's car?

A Ruby's car, a DeSoto, dark green in color and not a new model, the license number she didn't know, and that they had gone with her to Route 40 and she headed in the direction of Philadelphia and their understanding was that she was headed for Philadelphia.

Q Did you go back to Philadelphia?

A I beg your pardon.

Q Did you go back to Philadelphia then?

A Well we sat around to be sure that—Jackson wanted to be sure in his mind that the woman we were talking with wasn't Ruby Costello. He had seen her here and he thought that the woman in the room had darker hair. I mean we were just talking aside there on the davenport, so I talked with her a little further to see for sure that she wasn't Ruby Costello, and she told me her husband was playing at the Central Dauphin High School on Thursday evening. Well I know a little about that. I have a daughter that goes there, and I figured that if she would be Ruby Costello of Philadelphia, she wouldn't know much about an operetta being held at the Central Dauphin High School. So, we really determined in our minds that she wasn't Ruby Costello and so we proceeded back to Philadelphia and we were there about, approximately 3:00 o'clock in the morning.

We looked around the neighborhood for that green DeSoto car and couldn't find any, so rather than wake him up we proceded to our barracks. We were over there again about five minutes of seven this morning, and James Costello was already up and dressed and admitted us to the apartment and told us that she hadn't come back but that he had received a call from her at approximately 9:00 o'clock last night. He said she was calling from Baltimore and he told her that we had been down looking for her, and he urged her to come to Harrisburg and she said, "They'll never get me in Harrisburg. I won't go to Harrisburg." He said she said a lot of other things, and he said that she is highly nervous and very distraught, which was about the way her sister described her to us at Baltimore, down below Baltimore in Baltimore County. Her sister said, "When she left here, she was very nervous, hardly articulate and my sister and I concluded that she is on the verge of having a stroke." I am just about quoting her now.

So, we returned to Harrisburg because we figured that she didn't show up in Philadelphia; we took her husband's word that she apparently had called from Baltimore and we just returned to Harrisburg to be here at 10:00 o'clock.

MR. KOHN: Any questions?

ATTORNEY GENERAL McBRIDE: I have none.

CHAIRMAN TOMPKINS: No.

BY SENATOR YOSKO:

Q Was it your intent if you had found her to bring her back here bodily?

A Well we couldn't do that on a subpoena, Senator. I think that I could have persuaded her to come, I believe it.

BY MR. KOHN:

Q We had no right under the subpoena—and we so advised—to pick her up and bring her here bodily, but we did ask Sergeant Jackson to persuade her and stay with her and bring her here if he could find her.

A Oh yes, I think we could have brought her here.

ATTORNEY GENERAL McBRIDE: Particularly if you found her in Maryland, you couldn't take her across State lines.

THE WITNESS: Well we couldn't have brought her back with that subpoena unless she said, "I'll come myself." That's it.

BY SENATOR YOSKO:

Q Lieutenant, did her sisters say anything about her being involved in an estate of any kind?

A No, her sister gave us a little bit of a family history, about the prominence of the family. She said that—now wait until I see what she did say. She mentioned something about that. I don't know what she said. She said

a good bit. She gave us a history of her brothers, of her father. I can't remember all she said.

CROSS-EXAMINATION

BY ATTORNEY GENERAL McBRIDE:

Q To your recollection, did she say anything about the relationship between Ruby Costello and the other members of the family and as to whether any of the family had ever been involved in anything?

A Well she said there were nine children in our family and related what had become of them, what they had done and how talented some of them were along musical lines and in other fields. She said that this daughter—this sister was the only difficult one; that none of the family could get along with her. She used that expression, "You couldn't reason with her." She made another statement that, "She has a dual personality"—I know she said that—"and that if you were to attempt to talk her and she resented anything you said, you would be in a violent argument." She said, "We just left her go; she went her own way."

She also told us, "We didn't know she was married to"—she said that—"We didn't know she was married until this thing broke in the paper." Now this is speaking probably about her husband and herself, Mrs. Baker from Penbrook. I believe she was speaking for herself. She said, "We didn't know she was married."

Let me think if there was anything else she might have said. Well I dont know. It's pretty hard to remember. Well she was pretty well shook; she would cry and stop, you know how that is, and we would try and sympathize with her a little bit.

CHAIRMAN TOMPKINS: I guess that is all, Lieutenant.

THE WITNESS: Thank you.

CHAIRMAN TOMPKINS: Mr. Kohn, I would like to have you make one more statement.

MR. KOHN: Yes sir.

CHAIRMAN TOMPKINS: Did you give Mrs. Costello, last Thursday, any money to help her defray her travel expenses between here and Philadelphia?

MR. KOHN: No, I didn't give it to her. I know she said something about her travel expenses and I advanced $10 and we got the bill for that. Mr. Arnold gave it to her.

CHAIRMAN TOMPKINS: You advanced that in my presence, under my direction, is that right?

MR. KOHN: That's right.

Mr. Knies, you haven't made a return on this.

THE WITNESS: No, because it was given to Jackson, I didn't do that.

MR. KOHN: We have nothing further at this time.

CHAIRMAN TOMPKINS: Now this committee has met in Executive Session this morning and has authorized me, as Chairman of the Committee, to make this statement on behalf of the entire committee.

This committee has met in Executive Session to determine what should be done in connection with the absence of Ruby Costello, a duly subpoenaed witness. Every attempt was made to procure the presence of the witness as related by Mr. Evans and the State Police. It is evident that there is no credible testimony under oath to impugn the honesty and integrity of Frank Hean.

The record of this witness, ignoring this subpoena, will be turned over to the District Attorney of Dauphin County for further attention.

The individual members of this committee may have some statements to make in connection with this matter at this time, and if they do they will now be given the opportunity. Senator Scott.

SENATOR SCOTT: Well, Mr. Chairman, may I first say that I subscribe to the statements as made by the Chairman of the committee on behalf of the entire committee, but I also would like to make a statement as an individual member of this committee, a Republican member of this committee.

May I say that I am certainly very sympathetic with the situation that Mr. Hean finds himself in at this stage of the game, and I want Mr. Hean to know, and I want the public at large to know, that as far as I am concerned there is nothing which has been produced during this particular case or, as a matter of fact, during the period of the entire hearings which would lead me to believe that Mr. Hean is anything but a man of the highest character, honesty and integrity and I sincerely hope that Mr. Hean will have an opportunity later on to prove that my judgment of him is correct.

CHAIRMAN TOMPKINS: Senator Fleming.

SENATOR FLEMING: I would certainly concur in everything that Senator Scott said. In my opinion, there has been nothing produced that would in any way cast the slightest shadow on the integrity or the honesty of Mr. Hean. I am absolutely satisfied that he is guilty of nothing in so far as misconduct is concerned.

CHAIRMAN TOMPKINS: Senator Yosko.

SENATOR YOSKO: I concur in what both Senator Scott and Senator Fleming said about Mr. Hean, and I am convinced from the testimony that he gave here, from his conduct at these hearings, from his mannerisms that he is a high type, decent, respectable, honorable public servant and that the statement he made that he was paid $25 to look into a State matter is correct and I am convinced, beyond any doubt, that the implication that the money was paid in connection with any phase of the Pardons Board or the Parole Board is a false implication and I trust, Mr. Hean, that anything that has been said here will not adversely affect you in your life in any way or in your practice of the law or the discharge of your duties as a servant of the Commonwealth.

REPRESENTATIVE LOPRESTI: Mr. Chairman, I certainly must concur with the members who have already spoken. Undoubtedly all of us are fair-minded people, and want to be, and we don't feel that so far at least there is any indication whatsoever—and probably never will be—of any improper action.

I do want to call attention to some remark. I can't quote it exactly, but I think it was Shakespeare who said that a person could steal his purse and he hadn't lost much, but the theif that stole his reputation and fled into the night was a very low and reprehensible person.

I want to concur in that, and I believe that the woman who has sought to impugn the character of Mr. Hean is certainly fleeing into the night and I believe that she should come forth and make her statements in

the light of day before the public scrutiny and before this committee, if she wants to be a fair person.

REPRESENTATIVE BELL: Mr. Chairman, I concur with the remarks made by the other members of the committee. I also concur in the remark that you made that this matter be certified to the District Attorney of Dauphin County.

We, as Members of the Legislature of Pennsylvania, have the problem of people willingly flaunting the subpoena powers of our committee, and for us to take the action we have taken is a decided safeguard to future Legislative Committees, because when we are set out on our course as a fact-finding committee, we want the facts. We don't want lies, we don't want half-truths and if people don't appear in front of our committees, I think it is entirely advisable to take the action of certificaton to the District Attorney of Dauphin County.

CHAIRMAN TOMPKINS: From the testimony that's on the record, I want to concur in the statements of the other members of this committee. This committee decided to refer this matter to the District Attorney of Dauphin County in order that any imputations against Mr. Hean may be cleared up and cleared up, we hope, to his satisfaction, and I want to concur in the remarks of the other members of the committee in that respect.

Now, General McBride, do you have a statement you want to make?

ATTORNEY GENERAL McBRIDE: I would like to make a brief statement, because I feel deeply for Mr. Hean's position. I know from my experience with the Bar Associations and so forth that here is a man, living in Dauphin County, whose reputation has been assailed and the assailant has not come forward to face the accused in the way in which all of us would insist upon being faced were our reputation assailed.

I try to put myself in his position. I know that he must have had a lot of heartbreak after reading that it was even suggested that he had done an improper act which, if he had accomplished, would amount to a very serious crime and so I want to express my extreme gratitude to the fair-minded way in which the committee and all its members have approached it. When a committee like this, on a matter of pure decency, can rise far above partisanship as this committee has done it is a good thing and it might well be emulated in all aspects of State and National government.

On Mr. Hean's behalf, I can only say that when this thing occurred, he immediately came to see me for advice and wondered whether he should immediately institute a suit which would require that his assailant face him in an open court and repeat statements she was apparently willing to make behind his back. I advised him then that he should not bring a suit at that time, lest it be interpreted as being in any wise an interference with the course of these Legislative Committee Hearings, and we felt that had we done so the imputation could be cast upon Mr. Hean that he was trying to do that and so, until now, he has remained silent except for the testimony he gave here.

I want to assure the members of this committee that I shall most certainly advise Mr. Hean to seek redress in the proper court for what has been said against him and whatever damage has occurred to his reputation, and he will give this lady every opportunity to stand fully forth and face him in an open courtroom and testify to anything she has to say, and if she will not appear there, the ultimate seal of approval upon the falsity and the lack of any justification whatever for these charges will have been finally and irremediably shown and demonstrated.

CHAIRMAN TOMPKINS: Thank you, General.

Before adjourning these hearings, I want to make the reports which we may receive—I haven't seen any yet—and I don't know whether they are in the Joint State Government Commission or not, but I want to make a part of the record for the consideration of this committee a communication we may receive from the Law School Deans; also information the Joint State Government Commission has collected, at my request, in connection with clemency procedures in other States, which I understand they completed before the time I knew you had it and turned it over to the committee, General.

I also want to make as a part of the record, which I think has already been stated here, a letter which will be received from Justice Cohen. I also want to make a matter of record, for the consideration of this committee, all records, papers, figures, minutes, books and any other thing in the Pardons Board having to do with or pertaining to the subject of this investigation.

With that, these hearings will adjourn sine die.

(At 12:15 p. m., the hearing was adjourned sine die.)

* * * * *

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing on the above cause before the Joint Legislative Committee to Conduct an Investigation of the Board of Pardons, and that this copy is a correct transcript of the same.

PATRICIA L. SAYER

Reported by:

Miss Patricia L. Sayer
1625 Green Street
Harrisburg, Pennsylvania

REPORT OF

PARDON BOARD INVESTIGATING COMMITTEE

to

THE GENERAL ASSEMBLY

FOR RELEASE

REPORT OF PARDON BOARD INVESTIGATING COMMITTEE

Pursuant to House Resolution No. 1, Serial Number 4, Printer's No. 8, as amended by House Resolution No. 75, Serial Number 80, of the 1957 session of the General Assembly; the committee of the House and Senate, appointed in purusance thereof, submits the following report:

In order to have a better understanding of the basic problems involved pertainent to the inquiry directed by the said resolution, the committee decided that an his-

torical study of the background of executive clemency should be made.

Your committee has made a careful study of the matter of executive clemency and finds the problems of today not unlike those which have from time to time been experienced since the advent of organized government.

CLEMENCY—What it is

Smithers-Thorn, "Executive Clemency in Pennsylvania," says:

"Clemency should be extended in no case unless reasonably deemed to accord with the average common intelligence and general sentiments of the people."

"Clemency should be exercised only when, in obedience to a rational interpretation of common public interest, the case by reason of natural equity raises a presumption that it was intended to be excepted out of the general terms of the punishing statue."

"Executive Clemency should be accorded in those cases only where it would be repugnant to natural equity to permit the law to take its due course."

HISTORY

Executive Clemency has its origin in antiquity, and may best be expressed in a quotation from Sir Matthew Hale (1609-1676), wherein he said:

"When offenses grow enormous, frequent, and dangerous to a kingdom or state, destructive or highly pernicious to civil societies, and to the great insecurity and danger of the kingdom and its inhabitants, severe punishment, even death itself, is necessary to be annexed to laws in many cases by the prudence of law givers, though possibly beyond the single demerit of the offense itself simply considered. * * * And although I do not deny but Supreme King of the world may remit the severity of the punishment, as he did to Cain, yea, and his substitutes, sovereign princes may also defer or remit that punishment or make a commutation of it upon great and weighty circumstances, yet such instances ought to be very rare, and upon great occasions."

After the Pennsylvania Constitution of 1790 had been in effect a sufficient length of time to establish a settled and harmonious cooperation among the three departments of Government, it was observed that the pardoning power was subject to baneful influences which had not been foreseen. History had recorded no parallel combination of a Royal Prerogative wielded by a democratically chosen governor and the vice of an elective one-man pardoning power was revealed only by experience. In the Federal constitutional convention, this feature had indeed been the subject of debate, but no one had seriously contested the expediency of the clause as adopted except as it referred to treason, concerning which there was much debate about leaving it solely in the hands of the President. No material complaint of abuse followed, probably because of the lack of general, direct, and continuous contact with the citizens, and the consequent feebleness of local influence. In Pennsylvania, however, it was different. Community sentiment, intimacy with daily affairs, neighborhood knowledge of crimes committed, familiarity with criminal trials and constant approachability made Governors susceptible to deception, false sympathetic evidence and the obligation or feelings of friendliness founded upon political or personal consideration. The wisdom of the Constitution-makers had not been sufficient to anticipate the resulting abuses, but well grounded and frequent complaints followed within a few years.

The situation became such that Dr. James Mease, a distinguished member of the American Philosophical Society, in an article published in 1820, said: "I have no hesitation in saying that the continual and monstrous abuse by Governors of this great privilege is a very powerful cause of the increase of crimes and that the best code of penal laws that can be framed will be defeated unless it is checked. * * * Governors have much to answer for who thus defeat the laws and offer a premium for vice."

Smithers-Thorn. "Executive Clemency in Pennsylvania," says:

"That imperfections in procedure (criminal) exist is not so surprising as the fact that they are not more numerous. The history of the criminal law reveals a long, persistent and ofttimes discouraging struggle to overcome brutality, ignorance, vagueness and uncompromising prejudice, and it has taken centuries to establish the present enlightened safeguards." * * *

"After every reasonable expectation has been satisfied during the progress of a trial, the question of what penalty shall be imposed exposed the weakest feature of criminal jurisprudence as now administered. It is confronted with popular distrust and uncontrollable personal factors. The greatest diversity of opinion exists even among Judges. Defective laws, inequalities of Judicial temperament, learning and environment and the circumscribed or indifferent methods of investigation make equal or fitting adjustment of punishments under modern methods almost impossible."

The possibility of being deceived, acting upon an erroneous statement of facts, or from a false point of view, was considered a defect in the exercise of the power (Clemency) as contained in the Constitutions of 1790 and 1838, which the people sought to overcome by practically eliminating the personal factor and creating the present Board of Pardons which was incorporated into the Constitution of 1874.

It may be said that modern Executive Clemency in Pennsylvania is in its nature an exceptional governmental power, in derogation of the law, often bestowed for the correction of unjust and erroneous particular results arising from imperfect legislation and the inherent limitations of tribunals charged with the trial of criminal cases. The sovereign people of the State must be accepted as its source.

This committee believes that Clemency is also justice tempered with mercy, and is a vehicle through which a wrongdoer is given the incentive to rehabilitate himself and by his conduct render himself fit for return to society.

While the exercise of Clemency is protected against human frailties and perversity, so far as reasonably possible with finite institutions, it can still be invoked without undue restrictions. Within its jurisdiction lies the power and the right in respect of particular cases to

avoid the legislative will, reverse the verdict of juries and nullify or modify the judgments of courts. It represents the sense of human weakness, the recognition of human fallibility, the cry of human compassion. It is a confession of imperfect wisdom and voices mankind's universal repugnance to the irretrievable and the irrevocable. It is the protest of the multitude against unanticipated and cruel consequences of governmental deficiencies.

The complaints, the problems, the experiences, and observations of history are again being heard throughout the Commonwealth. The complaints, the problems, the experiences, and observations, which, prior to 1874, were directed against individual Clemency, have over the years been gradually transferred and become attached to the Pardon Board, which was created as an instrument to overcome such complaints, problems, experiences and observations.

PARDONING POWER—BOARD OF PARDONS

Under the aforesaid Resolution, this committee was "authorized and directed to make an immediate investigation of all actions since January 4, 1950, of the Board of Pardons in conection with the pardon, parole or commutation of sentence of persons convicted of crimes."

Section 9 of Article IV of the Pennsylvania Constitution of 1874 provides:

"He (the Governor) shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons, except in cases of impeachment; but no pardon shall be granted, nor sentence commuted, except upon the recommendation in writing of the Lieutenant Governor, Secretary of the Commonwealth, Attorney General and Secretary of Internal Affairs, or any three of them, after full hearing, upon due public notice and in open session, and such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the Secretary of the Commonwealth."

FINDINGS AND RECOMMENDATIONS

1. The Governor has no authority to grant pardons or commute sentence without first receiving a favorable recommendation from the Board of Pardons.

2. The Governor is not bound by a favorable recommendation of the Board of Pardons; and has the power to reject favorable recommendations and refuse to grant clemency. The Governor, however, can do nothing about a refusal by the Pardon Board.

3. The Board of Pardons is clothed with exceptional and extraordinary powers. Within its jurisdiction lies the power and the right in respect to particular cases to avoid the legislative will, reverse the verdict of juries, and nullify or modify the Judgments of Courts. So far as possible, this power, sometimes known as the depositary of clemency, should avoid all appearance of irregularity, uncertainty or caprice. Their judgment should not vacillate from want of practical knowledge, nor their mercy blunder for want of circumstances.

As an agency of mercy, favorable action should be recommended on merit only. Extreme care should be exercised that no recommendation be made from any personal or political consideration, nor founded upon any favoritism.

Jealous consideration should be given to the rehabilitation of the prisoner, but not at the expense of the preservation of law and order, and the peace and security of the community.

All reasonable doubts should be resolved in favor of the public.

4. Once the Board of Pardons has made a favorable recommendation, and the Governor acts favorably thereon, there is no other Governmental agency, court or legislative tribunal to which an appeal can be taken, nor is there any agency, court, body or person, including this Legislative Committee, with power or authority to reverse or set aside such action. Even the people themselves have no power to overthrow or reverse the action in any particular case. Their only recourse is to retire from elective office those who abuse this extraordinary prerogative, or blemish it with improper motives.

5. The Board of Pardons has no power to compel the attendance by subpoena of witnesses, or oblige them to testify. This power should be granted to them, as an aid in investigating and verifying information presented to them or before them.

6. Every effort should be continuously made to afford every safeguard as to "due public notice" in the publication of place, time and nature of offense, place and time of hearing, and the name of the applicant.

The present system of ascertaining whether or not due public notice has been given in any particular case, as required by the Constitution, is inadequate.

In order to check and establish any such proof, reference must be had to files located in Governmental agencies other than the Board of Pardons.

Without imputing any ulterior motives to the present or previous Boards of Pardon, we recommend that no hearing, rehearing, or hearing on special listing shall be had unless and before advertisement of the same is first had.

We further recommend that sufficient proofs of publication be obtained in order that a copy of such proof shall be attached to the calendar of each session of the Board for each case therein listed.

We further recommend that no case be heard by the Board unless and until such proof of publication is so available and attached.

7. Cases examined since 1950 were found where letters in the file referred to other communications and material which were not, but should have been, in the file, and could not be found or located.

We recommend that all papers relating to a case, including letters, communications, record of telephone calls and personal visitations to individual members of the Board, the Board Secretary, and to the Governor, formal petitions, transcripts of records, testimony, affidavits and reports, whether favorable to the applicant or in protest, should be placed and kept in the file of each applicant to which they relate, and should be open to public inspection (excluding confidential reports from Parole and prison authorities) before the hearing, at the hearing, and after final decision.

We further recommend that a chronological index of applications be installed.

8. The Constitution requires reasons for the action of the Pardon Board to be prepared and filed in those cases,

only, in which they make a favorable recommendation. In all cases of refusal, no reasons need be stated.

We recommend that in all cases of refusal reasons should be stated and filed for the guidance of future Pardon Boards.

We further recommend that reasons for refusal be made a part of the confidential record in the file of each applicant.

The decision of one depositary of clemency should be considered to a very great degree as a guide for his successor, for the latter is not as likely to have data so accurate and complete as his predecessor.

9. The power of pardoning and commutation is founded on consideration of the public good, and should be exercised on the ground that the public welfare, which is the legitimate object of all punishment, will be as well promoted by a suspension as by an execution of the sentence. A pardon or commutation should be granted, not as a matter of right, but as a matter of grace bestowed by the Government through its duly authorized officers. It should not be a personal favor, nor a private act of grace, because the individual happens to possess power; but should be granted in the exercise of a public function, or as an act in the interest of the public welfare.

The committee finds that through the years there have been what appear to be attempts to use political or personal influence on members of various Pardon Boards. The committe is unable to state what effect, if any, these attempts have had upon the decisions of any particular Board in any particular case.

10. The Board of Pardons is unrestricted in its power to make, alter, change and suspend its rules of procedure, which can lend itself to temptation for abuse and exploitation.

The committee recommends that no rule of procedure (except where the death penalty has been imposed) shall be altered, changed, suspended, excepted, or become effective, unless and until such alteration, change, suspension, or exception has first been publicly promulgated for a period of ninety (90) days. We recommend that no case be given special listing (except where the death penalty has been imposed).

11. In all cases of offenses against the person, we recommend that the victim, or his or her next of kin, if available, should receive written notice of the application, together with time and place of hearing.

12. At no time has any member of this Committee suggested, intimated, or recommended the abolition of an agency of clemency. Such an agency is a necessary requisite of any civilized government.

We recognize that by the very make-up of the Pardon Board the members thereof have been, are now, and will continue to be approached by influential persons in various walks of life in an attempt to secure favorable consideration for some particular applicant.

With the present case load of the Pardon Board, we should not impose upon such busy persons, who are charged with other official duties, and who constitute the Board, the additional burdens now involved in clemency applications.

There has, however, been a division of opinion as to changing the personnel composition of the Pardon Board in an effort to minimize influence and place the agency upon a more judicious basis.

A majority of the Committee recommends that the presently contemplated Constitutional Revision Committee (or, upon failure of creation thereof, the Joint State Government Commission) take under advisement and thorough study the many problems involved in the structure of the Pardon Board as it is presently constituted and make such recommendations as they deem proper.

A minority of the Committee (Tompkins and Bell), from a study of the plans used in other states, recommends the personnel of the Pardon Board be changed so that it be composed of the Lieutenant Governor and four (4) additional persons; one to be appointed by the Chief Justice of the Supreme Court, one to be appointed by the President Judge of the Superior Court, and two to be appointed by the Governor. None of the appointees shall hold any other public office. All appointments shall be subject to confirmation by the Senate. All appointments shall be for full time duty, and shall be made for a period of eight (8) years, upon a staggered basis of two (2) years. No appointee shall be eligible for re-appointment. The power of removal shall be with those who make the appointment. Each vacancy shall be filled by the respective appointing power that theretofore made the appointment; and the appointive powers shall have the authority to make recess appointments until the convening of the Senate. The General Assembly should have power to regulate procedure before the Board of Pardons.

A minority of the Committee (Yosko and Lopresti) believe that from their examination of the plans used in other states and by the Federal Government and by other National Governments, the Pennsylvania Board of Pardons is at least one of the best, if not the best, for assisting the Chief Executive in deciding when executive clemency is warranted. Nevertheless, we join with Messrs. Fleming and Scott in the recommendation that the whole matter be studied by the Constitutional Revision Committee or by the Joint State Government Commission.

It is our view that the proposed substitute is unworkable. Since the term proposed for appointed members is eight years, it is obvious at once that some Governors will have no appointees at all. Would any Governor be likely to accept such recommendations by a Board, none of whose, or only two of whose, members he had appointed? The plain fact, therefore, is that a Governor, conscious of his own duty in the premises, would set up his own independent staff to review every affirmative recommendation before signing it. This would mean a needless and undesirable duplication of effort. In no other area of state government is an executive officer appointed by the judicial power particularly where Senate confirmation is required.

13. We find communications and records in the files of various applicants, and allegations, representations, and self-serving declarations made to the Board in petitions and at the time of hearing, some of which, in our opinion, should be the subject of further inquiry for the purposes of verification.

We recommend that the Board of Pardons have a staff of its own to investigate and verify allegations, representations, and self-serving declarations made to them with reference to any applicant.

14. The "round robin" is a written communication from the Secretary which is circulated among the Board mem-

bers and polls the vote of each member, not in the presence of the others or in executive session.

We find that the "round robin" is used to obtain the position of individual members of various matters of procedure in individual cases before the Board. We are of the opinion that the "round robin" is not a satisfactory method of seeking this information.

We recommend that all decisions made by the Board be considered and determined in executive session, and not by the method of "round robin," letters, or inter-office communications.

15. All applications for hearing should be upon formal petition, signed and verified by the applicant. All proceedings seeking a rehearing, argument or reargument, consideration or reconsideration, or continuance should be upon a formal written application, signed by the applicant, his counsel of record, or by his duly authorized representative.

16. We find that the written reasons made by the Board in all its recommendations are undated. We suggest that all such recommendations be dated.

17. Pardon Boards have upon occasions acted after hearing; and in particular, on hearings specially listed; prior to the time the Board of Parole has had an opportunity to file a complete report of the results of its investigation to determine the accuracy of allegations in the application, or that of its counterpart in other jurisdictions.

Action without verification of the self-serving statements in the application is inherently unsound.

This Committee recommmends that no hearing be held, and no favorable action taken, until such time as a full and complete report of the Board of Parole is submitted.

18. There should be as much reliance upon the clemency of the Government as upon its justice, and both should be exercised with equal regard to the rights of the citizen and the peace of the community.

It is essential that the Board of Pardons be as nonpolitical in nature as possible. The principle of impartiality in the administration of mercy must be preserved. Mercy, the keystone of clemency, and rewards for readjustment of criminals to the mores of society must be nominated alike to all prisoners—the penniless the same as the wealthy, and the man without friends as well as the man with influential connections.

The Pardon Board at all times should be, and remain, an agency of mercy; and not an agency of general jail release.

A minority of the Committee (Yosko and Lopresti) endorse the statement made above and call particular attention to the fact that the record in this investigation shows that the present members of the Board of Pardons were also in agreement with this principle. An analysis of the applications made to the Board for the years 1953 to 1956, inclusive, which was submitted to the Committee and verified by its Counsel, shows that the previous Board recommended clemency in more than twice as many cases percentagewise than the present Board. This is the record:

Year	Total Cases	Total Cases Granted	Percentage Granted
Previous Board			
1953	1083	316	39.18%
1954	1281	451	35.20%
Present Board			
1955	978	205	20.09%
1956	1067	137	12.55%

DARCY CASE

During the course of this inquiry, the committee and its counsel investigated many cases, principal among which was the one better known as the "Darcy case."

The crime in the Darcy case was committed December 22, 1947. The case was tried and a verdict of Murder in the First Degree was rendered during the week of June 7, 1948. Darcy and his two co-defendants were sentenced to death in September, 1948.

An appeal was then taken to the Supreme Court of Pennsylvania. An opinion was handed down on May 26, 1949, sustaining the conviction, with one Judge dissenting. Twenty-six exceptions were assigned in the appeal to the Supreme Court of Pennsylvania as the reasons for a new trial. None of the exceptions raised any issue as to competency of counsel, the actions of Judge Boyer, hysteria, or the fairness of the trial.

Appeals were then taken all the way to the Supreme Court of the United States, in which all of the several courts upheld the conviction.

An application for commutation of sentence was then filed before the Pennsylvania Pardon Board on January 4, 1950. The reasons assigned by David Darcy for his commutation related solely to his personal history, health and environment. The original application was refused in March, 1951. Due to the fact that the Constitution does not require the stating of reasons for refusal, no reason in support of the Pardon Board's action for refusal appears in the record.

Upon the refusal of clemency, Darcy then filed application for habeas corpus in the Federal District Court, alleging for the first time the incompetency of counsel, the actions of Judge Boyer, hysteria in the court room at the time of trial, and the fairness of the trial. These issues were fought through the Federal Appellate Courts to the Supreme Court of the United States, when in June, 1956, the Supreme Court of the United States again upheld the conviction.

It might be well to state at this point that during the course of all the litigations in the several courts of Pennsylvania and of the United States, the case passed through the hands of twenty-five different judges, seven of whom dissented.

Thereafter, on August 20, 1956, Darcy filed his second application for commutation of sentence, alleging as his reasons, among others:

"1. Lack of effective assistance of counsel.

2. Public hysteria and prejudice prevailing at the trial.

3. Trial before a two-judge court, one of whom was intent upon the imposition of the death penalty."

After proper notice, a hearing was held on the petition on September 20, 1956, at which time the following Board members were present and sat on the case:

Genevieve Blatt, Secretary of Internal Affairs.

Herbert B. Cohen, Attorney General.

Roy E. Furman, Lieutenant Governor.

Henry E. Harner, Secretary of the Commonwealth.

Following the hearing, the Board made its favorable recommendation to His Excellency, George M. Leader, Governor of the Commonwealth, setting forth its reasons, as follows:

"(a) Included in the guarantee of a fair trial is . . . the right to representation by competent and diligent counsel."

"(b) Darcy's counsel in petitioning for a new trial raised a number of questions going into the fairness of the trial, the conduct of the Judge (Boyer) and the atmosphere of hysteria and prejudice surrounding the court room."

On the 29th day of September, 1956, His Excellency, George M. Leader, Governor of the Commonwealth, signed the warrants commuting the sentences of Darcy and his two companions from death to life imprisonment

During the period of time that the case was in litigation in the courts, David Darcy and his companions received numerous stays of execution. Approximately twenty-three in number were granted to David Darcy by three different Governors, in office at the particular time. These stays of execution were granted as a matter of course because of appeals pending in the courts.

With this history of the case, the committee makes the following observations and findings:

1. This committee has no power to reverse the commutation recommended by the Board of Pardons and approved by the Governor.

Even the people themselves, wherein "all power is inherent," have no power to reverse the action.

2. There were apparent attempts to use political and personal influence. This committee is unable to state if the apparent attempts had any influence upon the decision of the Pardon Board. The several members of the Board of Pardons say they were not influenced.

3. Mr. Matthew McCloskey testified:

"Q But you did talk to each one (members of the Pardon Board) separately?"

"A I did talk to each one separately, and I asked them to read that Brief (Decision of the Circuit Court of Appeals in the Darcy case); and that was in June or July of 1955." P. 2233.

"Q What was your purpose in giving to each member of the Board of Pardons a copy of that?"

"A Of course, because of my interest in this case, I felt that there wasn't any way that anybody was ever going to know what that opinion had unless they read it. P. 2232 . . . I just took the bull by the horns and handed it to them and asked them if they would read it." P. 2232-33.

Secretary of Internal Affairs, Miss Genevieve Blatt, a member of the Pardon Board, testified that Mr. McCloskey visited her at Harrisburg and gave her a copy of the Darcy decision.

Lieutenant Governor Roy E. Furman, Chairman of the Pardon Board, testified:

"Q There has been testimony by Mr. McCloskey that he handed you a copy of the Court of Appeals opinion including both minority and the majority opinion, will you comment on that?"

"A Had I been asked that question prior to listening to Mr. McCloskey, I would have said "No." But since I heard him testify that he gave it to me, I know it must be true. I can honestly state that I have no recollection of it." P. 2454.

Mr. Justice Herbert B. Cohen, former Attorney General, and a then member of the Pardon Board, in a letter to Attorney General McBride, dated May 8, 1957, and submitted to the committee for incorporation in the record, says:

> "In regard to the case of David Darcy, there was mention that Mr. Matthew McCloskey came to see me and left with me a copy of the opinions of the U. S. Court of Appeals for the Third Circuit in that case. I actually do not recall his doing this, but it seems to me to be a matter of no significance for the reason that, the Department of Justice being one of the parties, the opinions were in my possession long before they were presented to me by Mr. McCloskey."

The committee leaves it up to the General Assembly to draw their own conclusions from the above testimony as to whether or not the Pardon Board members were influenced in arriving at their decision.

A minority of the Committee (Yosko and Lopresti) find no evidence to show "attempts" to use political and personal influence. There is only one circumstance in this whole case to show any contact whatever with any member of the Board of Pardons. This is the fact that considerably more than a year before the case was heard by the Board, Matthew H. McCloskey, Jr. handed to each of the then members of the Board of Pardons a copy of both the majority and minority opinions of the Court of Appeals. There was no discussion; there were no suggestions; there was no request, except that the opinions be read. Those opinions presented both sides of the merit of Darcy's claim that his constitutional rights had been violated. The majority then extracts from the testimony of the members of the Board and makes this comment: "The committee leaves it up to the General Assembly to draw their own conclusions."

We ask, if the committee which heard the testimony was unable to conclude that the Board was influenced, upon what basis could the General Assembly, which heard none of the testimony, come to a different conclusion?

4. In the case of Darcy V. Handy, et al., October Term 1955, No. 323, Supreme Court of the United States, Mr. Justice Herbert B. Cohen, then Attorney General, successfully argued that:

(a) Darcy did receive a fair trial.

(b) The action of Judge Boyer did not prejudice the trial.

(c) There was no atmosphere of hysteria and prejudice surrounding the court room.

(d) Darcy was represented by competent counsel.

The reasons set forth by the Pardon Board for the commutation of Darcy, the first draft of which was prepared by or under the direction of the then Attorney General, Herbert B. Cohen (sitting as a member of the Pardon Board) (P. 1906) says:

"(a) Included in the guarantee of a fair trial is the right to representation by competent and diligent counsel."

"(b) Darcy's counsel in petitioning for a new trial raised a number of questions going into the fairness of the trail, the conduct of the Judge and the atmosphere of hysteria and prejudice surrounding the court room."

As to the above, Mr. Justice Cohen, in his letter of May 8, 1957, says:

"More important, however, is the indication that there was something inconsistent about my position in the Darcy case. It was implied that because, on the one hand, as Attorney General I resisted Darcy's appeals in the courts and, on the other hand, as a member of the Pardon Board I voted to grant commutation there was some inconsistency of position on my part."

"The Attorney General of Pennsylvania must perform, as a constitutional officer of the Commonwealth, several functions, each of which may call upon him to exercise different types of independent judgment. As the chief law enforcement officer of the Commonwealth it was my duty to resist Darcy's petition in the courts on the question of whether or not he had been granted a fair trial in the constitutional sense. As a member of the Board of Pardons, I was not confronted with this narrow question, but rather with whether or not clemency was justified in light of the entire proceedings and subsequent events. I think it was perfectly consistent to resist Darcy in the courts and to exercise my best judgement as a member of the Board of Pardons. In the latter function I sincerely believed and still believe that clemency was justified."

The explanation of the former Attorney General, Herbert B. Cohen, in his above quoted letter is at best a feeble justification for the dual role he played in the case.

These dual gymnastics and conflicts may be legal, but certainly are not in the best interest of the People of Pennsylvania.

Because of the possibility of similar conflicts of duty arising in the future, a majority of the committee (Scott, Fleming, Tompkins, Bell) believes that the office of Attorney General should not be included in the structure of the Pardon Board.

A minority of the committee (Yosko and Lopresti) believe that the statement of Mr. Justice Cohen, presently a member of the Supreme Court of Pennsylvania, is a complete refutation of the Majority's conclusion. The suggestion is made that he was indulging in "dual gymnastics," a meaningless phrase at best and in this instance a most unfair one. It is suggested also that there were other "dual gymnastics" and "conflicts of duty" which remain unmentioned. There is a good reason for not mentioning them. They did not exist.

In further support of the conclusion that the office of Attorney General should not be included in the structure of the Pardon Board, a minority of the committee (Tompkins and Bell) feel that a confliction arose from the multiple duties imposed upon the Attorney General in this investigation.

Article VII, Section 704, of the Administrative Code of April 9, 1929, P. L. 177, imposes a triple duty upon the Attorney General, viz:

1. Legal advisor to the Governor;
2. Chief law officer of the Commonwealth; and
3. Such other duties as may now or hereafter be vested in or imposed upon him by the Constitution and laws of this Commonwealth. (One of the Constitutional duties is that of being a member of the Pardon Board)

Section 904 also imposes upon the Attorney General, with the approval of the Governor, the duty to:

1. Investigate any violations or alleged violations of the laws of the Commonwealth which may come to its notice;

2. Take such steps and adopt such means as may be reasonably necessary to enforce the laws of the Commonwealth."

How conflicts can arise from the multiple duties imposed upon the Office of the Attorney General were clearly indicated in the present investigation.

A minority of the committee (Tompkins and Bell) further reports:

The Attorney General made a choice of representing the Pardon Board. In doing so, he placed himself at times in opposition to the investigation of a Legislative Committee; and at times impeded the work of the Committee.

This constituted a conflict with his duties as "chief law officer of the Commonwealth"; and of his duties "to investigate alleged violations of the law." This is not a healthy condition for the people of the Commonwealth, and it would have been better for the Office of the Attorney General to maintain impartiality, not to have directly entered into the proceedings at all.

A minority of the Committee (Yosko and Lopresti) disagree that the present Attorney General was involved in a conflict of duty by virtue of his having represented the Board of Pardons. It must be remembered that the Legislature was undertaking to investigate the action of a branch of the executive department of government. The Attorney General is not only the attorney for the Governor but also for all executive departments, boards and commissions. As such it was his duty to appear, personally if he chose or by deputy, to aid in throwing such light as he could upon the investigation from the point of view of the executive department. Far from impeding the investigation, he actually aided it. At all times the Attorney General invited the Committee to make a formal decision that he was disqualified. It never did and has not done so now. But had it done so, such a head-on conflict between the executive and legislative branches of government would necessarily have been resolved by the Supreme Court. In this way the question would have been decided once and for all.

5. In view of the fact that the issues as to competency of counsel, the actions of Judge Boyer, hysteria, and fairness of the trial were not raised until a late stage of the court proceedings, and after the first application for clemency had been refused, this Committee believed that because of this, and because of information contained in the whole record before it, the Pardon Board should have conducted a more thorough investigation.

6. Statements were obtained from the jurors who tried the Darcy case a considerable length of time after they rendered their verdict and the same was recorded, indicating they might have rendered a different verdict if certain facts had been brought out at the trial.

These statements were submitted to the Pardon Board and were a part of the record which they considered.

This is dangerous practice and we recommend legislation to forbid the same.

7. Considerable was made during the hearings about the more than five years that Darcy, Zeitz and Foster

were confined to the death house. This committee recognizes the impact of such a protracted ordeal.

The committee further recognized that the duration of confinement was of Darcy's own making by the numerous court procedures, which he kept in process, and not of the making of the Commonwealth.

Should long confinement in the death house be a reason to warrant a grant of clemency, then every person sentenced to death would warrant a grant of clemency if he were able to litigate his case over an extended period of time.

We do not believe this constitutes equal justice, and the use of such a reason is not well founded, either in justice or mercy.

A minority of the Committee (Yosko and Lopesti) believe that in view of the fact that the Darcy case has been singled out for so much comment it is necessary that the General Assembly be advised as to the context in which the Board of Pardons considered this case and the obvious reasons upon which it acted.

The issue in the federal court on Darcy's petition for habeas corpus was whether the state court has given him a trial so fundamentally unfair that a federal court would interfere even to the extent of preventing a state from exercising its admitted jurisdiction to punish crime. That was not the question that ultimately came before the Board of Pardons.

An examination of the majority opinion in the Court of Appeals shows that the majority of the court entertained doubts as to the justice of the trial. It must be remembered that the trial of one of Darcy's co-conspirators ended on a Friday and Darcy, who had been granted a severance, was nevertheless placed on trial the very next trial day which was the following Monday. Here is the majority of four judges speaking (p. 507):

> "The situation certainly would have justified a decision to wait a while before trying the relator, or else to try him in another community if trial immediately after the conviction of his confederates was deemed inportant. . . .
>
> (P. 508) "It is established constitutional doctrine that our limited function in correcting fundamental impropriety in state trials challenged under the due process clause makes it necessary that we leave alone many dubious occurrences in state procedure which we would proscribe if they should happen in a federal court."

Can anyone say with fair assurance that the majority of the court was holding that the trial was fair? Can anyone say, in view of this language, that had it occurred in a federal court it would not have been condemned?

Here is what the three judges constituting the minority, speaking through Judge Kalodner, had to say (p. 515):

> "Shaken down to its hard core the majority's position—bluntly stated—is this: Darcy was grievously hurt by Judge Boyer's conduct but we cannot help him because he was hurt on the other (the State) side of the street; otherwise stated, there is no constitutional redress for Darcy despite the fact that he was unfairly tried because it was his fate to be tried in a State court instead of a Federal Court."

In the Supreme Court of the United States (351 U. S. 454), the same arguments were made on behalf of Darcy. He lost again by a vote of 6 to 3 but the opinion of the majority of that court shows again that no affirmative finding was made that the trial was fair but only that Darcy had failed in the great burden he had to assume in asking a federal court to upset a state trial by showing essential constitutional unfairness. Here is what the majority said in concluding its decision (p. 467):

> "Petitioner has not sustained the burden resting upon him to show that his trial was essentially unfair in a constitutional sense and that the several courts which have reviewed it are all in error."

Here again three justices of the Supreme Court of the United States dissented in an opinion written by Mr. Justice Harlan, holding that the trial was not only unfair but that it was sufficiently unfair to violate even the federal constitution despite the fact that it was a state trial which was being reviewed. Mr. Justice Harlan concluded his opinion as follows (p. 469):

> "The reasons for my conclusion are those which Judge Kalodner has well stated in his dissenting opinion in the Court of Appeals, 224 F. 2d 504, 509. We should be especially scrupulous in seeing to it that the right to a fair trial has not been jeopardized by the conduct of a member of the judiciary."

Therefore, the Board of Pardons was faced by this alarming disagreement among the highest courts in our land. Should any accused go to his death under such circumstances? There the judges split on the question of whether he should get a new trial, meaning a second chance either to go free or to establish a lesser degree than murder in the first degree. The issue before the Board of Pardons was simply whether, in view of the entire circumstances of the case, including the doubts expressed by the minority judges (equal in ability and conscience with the majority) he should be spared his life and condemned to spend it in a pentitentiary.

Furthermore, evidence was offered to the Board that 11 of the 12 jurors in the original trial, when polled at a later date, stated that they would not have voted for the death penalty had Darcy been placed upon the stand and had they known all the circumstances of the case.

Added to all this is the fact that these three men had been incarcerated for upwards of seven years, many of which were spent in the death house itself. To have executed them under such circumstances would have been barbaric. The public, if it knew all these facts, would have been better able to understand the decision in the Darcy case and the issue which confronted the Board of Pardons which was essentially different from that which confronted the courts.

The majority of this Committee makes the following statement after acknowledging the fact that Darcy, Zeitz and Foster were confined to the death house for more than 5 years: "The committee further recognize that the

duration of confinement was of Darcy's making by the numerous court procedures, which he kept in process, and not of the making of the Commonwealth." What about both Zeitz and Foster? After the year 1950, when their appeals were affirmed by the Supreme Court of Pennsylvania, they did not file or participate in any court procedures whatever. There was never any stay of execution granted by any court in their cases and the Commonwealth was at all times able and legally warranted in executing them. Yet they were kept alive for years thereafter in the death house. There is no warrant in law, in justice, or in humanity in respect of a man sentenced to death by electrocution to keep him alive for years in a death house where he has not chosen this course and then at will or caprice to execute him when the mood strikes executive power.

If there is one single fact that shines like a beacon in this whole case it is that it would have been a shameful, harsh decision that would have sent Foster and Zeitz at that late date to the execution chamber; and if they were to be spared, what reason could be urged why Darcy should be treated differently? The fact that he had exercised his legal rights? The fact that those legal rights were so persuasive that even though not successful they resulted in six of the highest ranking federal judges agreeing that his trial was constitutionally unfair? Surely it will not be pretended that the exercise of rights given to a citizen by the law warrants a penalty that would not otherwise be visited upon him.

8. The Governor was extended an invitation by the committee to appear before them. Under adivce of the Attorney General, on the principle of separation of powers, he did not chose to do so. P. 2315

Information was voluntarily submitted to the committee "that the recommendations of the Board of Pardons * * * were received in the Governor's office, Harrisburg, shortly after noon on Saturday, September 29, 1956, were signed between 5:30 p. m. and 6:00 p. m. by the Governor at the Executive Mansion, and were returned approved to the Board of Pardons from the Governor's office at 6:30 p. m. on the same day."

When the committee sought to subpoena David V. Randall, Secretary to the Governor, and Richard Heagy, Chief Clerk to the Governor, to testify to more ministerial detail as to time the Governor received same and how long they were in his possession, the Attorney General answered the subpoenas for them and advised that under the ruling of Appeal of Hartranft, 85 Pa. 433, they as subordinates of the Governor were not subject to subpoena process relating to matters concerning the Governor.

At the hearing this ruling was challenged by the Chairman as to ministerial acts performed by the Governor. P. 2320.

On the question of Executive Immunity, the committee as a whole agrees with the decision in the Hartranft case.

A minority of the committee (Tompkins and Bell), however, wish to point out this immunity is not absolute, nor are the courts unanimous in their views. The dissenting opinion of Chief Justice Agnew in the Hartranft case says:

> "On no ground of the Constitution, law, public justice, State policy, or sound reason, can I discover any exemption of any officer in the State, high or low, from the common duty all citizens owe to the due administration of justice. With these views, I cannot consent to rob the Judiciary of its Constitutional power, and exalt the executive above the demands of justice and the safety and welfare of the people. I cannot abnegate a duty entrusted to me by the people, and will perform that duty unsullied by dereliction, or obeisance at the shrine of unwarranted power."

9. Darcy and his confederates, having had their death sentences commuted, now become eligible for further commutation for release into society whenever the Pardon Board and the Governor deem fit.

A minority of the Committee (Yosko and Lopresti) simply wish to add that Darcy, Zeitz and Foster have not been freed but are serving a sentence of life imprisonment. There is no justification for the implication that the present or any other Board of Pardons will further commute their sentences thus making them eligible for parole.

Respectfully submitted:

Pardon Board Investigating Committee

Representative Edwin W. Tompkins, Chairman

Senator William Z. Scott, Vice-Chairman

Senator Robert D. Fleming

Senator Joseph J. Yosko

Representative Philip Lopresti

Representative Clarence D. Bell

June ———— 1957

UNIVERSITY OF ILLINOIS-URBANA
3 0112 085163373